

## ATTACHMENT 1

### Response to Bureau of Sanitation's Comments on the 9/21/04 Tentative NPDES Permit for the Hyperion Treatment Plant

<b>Comment #</b>	<b>Document Reference</b> (Doc. #, Page #, Section #, Paragraph #)	<b>Issue</b>	<b>Comments</b>
1	Order, Page 1, Finding 1; Fact Sheet, Page F-4, Para. II; and MRP, Page T-1, Para. I.C.	Reference to City of Los Angeles	The permit and all accompanying documents should reference the City only as "the City," and not as "the Discharger." This would recognize the City, like the Regional Board, as a branch of government providing a valuable public service to its constituents. The term "Discharger" connotes that nothing of value is being achieved by the City's discharge.
<b>Response:</b>	The term "Discharger" is standard language used throughout the California Water Code, and has been consistently and historically used in numerous permit attachments such as "Standard Provisions", which are made a part of every NPDES permit issued by the Regional Board.		
<b>Action:</b>	None necessary.		
2	Order, Page 2	Consent Decree and other Legal Issues	Section called "Consent Decree and Other Legal Issues" does not need to be included in the permit. This information is already contained in the Fact Sheet at Page F-4 through F-6 and is not required to be duplicated in the permit.
<b>Response:</b>	This section includes some major legal issues encountered during the last permit cycle and supplies information pertinent to the permit. We believe it is appropriate to be incorporated into the Permit.		
<b>Action:</b>	None necessary.		
3	Order, Page 2, Finding 5 a. and b. and Fact Sheet Page F-4	Consent Decree and other Legal Issues	These paragraphs should state if the Consent Decree and Settlement Agreement are still binding or if all tasks thereunder have been completed. It appears from Finding 6 of the Order and Paragraph IV.B of the Fact Sheet that the tasks under the Amended Consent Decree are complete and this case should be dismissed.
<b>Response:</b>	Findings 5.a. and b. have been carried over from the existing permit. Findings 6 and 8 clearly address the current status of these issues, respectively. These Findings indicate that some tasks were completed after the issuance of the existing permit.		
<b>Action:</b>	None necessary.		
4	Order, Page 2, Finding 5.c. and Fact Sheet, Page F-5, Para. E.	Consent Decree and other Legal Issues	These paragraphs should reference that Cease and Desist Order (CDO) No. 98-073 was appealed by the City and a writ, judgment, and statement of decision were issued by the Los Angeles County Superior Court on portions of this CDO. See City of Los Angeles v. SWRCB and LA Regional Board, Los Angeles Superior Court, Case No. 060957 (April 4, 2001).

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<b>Response:</b>	USEPA and the Regional Board have noted that the Settlement Agreement and Final Order were entered into the court records on October 29, 2004. This new information will be added to the permit. The last two sentences in Finding 9 of the Tentative Permit have been revised as follows:  "This settlement is currently undergoing <u>underwent</u> public review and comment. <u>The Settlement Agreement and Final Order was filed on October 28, 2004 and entered by the District Court on October 29, 2004, and is now being implemented. If this settlement is ultimately approved by the District Court, it will</u> The Settlement Agreement and Final Order establishes a ten-year program designed to reduce SSOs and sewage odors to the maximum extent feasible."		
<b>Action:</b>	Changes have been made.		
5	Order, Page 3, List of Contract Cities and Agencies	Contract Cities should be noted in Fact Sheet only	This information regarding Contract Cities and Agencies should be included in the Fact Sheet only. This information is not necessary for the permit.
<b>Response:</b>	We believe that the language regarding Contract Cities and Agencies should be included in the Permit. The language provides information about the Hyperion Service Area.		
<b>Actions:</b>	None necessary.		
6	Order, Page 3, Finding 11, and Fact Sheet, Page F-6	Credit for Dry Weather Diversions	<p>This Finding recognizes that the City is diverting dry weather urban runoff, which as the Regional Board recognizes in the recently released draft Metals TMDLs may contain metals. The HTP, by diverting this runoff water through the secondary treatment process, creates a net environmental benefit by removing up to 80% of these metals that would otherwise flow into nearshore areas of Santa Monica Bay. However, this permit does not recognize these influent loads and provide offsetting credit in the mass or concentration limits to account for the removal of higher metals loading than would occur if it were not for the City's diversions. The Bureau requests that the permit recognizes and credits this program, otherwise, the City is essentially being punished for this environmental improvement activity.</p> <p>At the very least, the Bureau requests that the new permit carry a provision allowing the Bureau to develop an approach for urban runoff-related discharge credits for approval by the Executive Officer with a commitment by the Regional Board staff to include an approved credit system in a permit reopener.</p>

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<b>Response:</b>	USEPA and the Regional Board staff recognize the City's effort to treat urban runoff diversion. Since the estimate of this diversion is approximately 11 mgd (as reported by the City during an October 28, 2004 meeting), we believe that the impact from the treatment of this diversion on the effluent will not be significant when comparing it to the total flow through the Plant. Pursuant to Section VI (Reopeners and Modification) of the Permit, the City may request to reopen or modify the permit to incorporate new limits based on new monitoring data collected by the City and evaluated by the Regional Board. After collecting sufficient data, the City may conduct a trend study to demonstrate the need to <u>re-evaluate the existing effluent limits</u> .		
<b>Actions:</b>	None necessary.		
7	Order, Page 4, Finding 10	Correction to Contract Cities and Agencies	Under Contract Cities and Agencies, change item t. from "U.S. Naval Shipyard – Terminal Island" to "City of Long Beach."
<b>Response:</b>	Comment noted.		
<b>Actions:</b>	Change has been made.		
8	Order, Page 4, Finding 12, and Fact Sheet, Page F-6, last Paragraph	Reference LAG, DCT, and Burbank Appeal	Since other judicial actions are being referenced, this Finding should recognize that all three permits referenced in this paragraph were appealed and a writ, judgment, and statement of decision were issued by the Los Angeles County Superior Court on portions of these permits. See <i>City of Los Angeles v. SWRCB and LA Regional Board</i> , Los Angeles Superior Court, Case No. 060957 (April 4, 2001). This Superior Court decision is binding, except for the issues that were appealed by the State Board and LA Regional Board and are currently pending before the California Supreme Court.
<b>Response:</b>	The intent of Finding 12 is to provide information on the relationship between the Hyperion Treatment Plant and the three upstream treatment plants. Discussions of any legal issues related to these upstream plants are not appropriate to be included in the Hyperion permit.		
<b>Actions:</b>	None necessary.		
9	Order, Page 5, Finding 15	Correction to Description of Hyperion Treatment Plant Process	Revise 2nd paragraph as follows:  "Solid fractions recovered from wastewater treatment processes include grit, primary screenings, primary sludge and skimmings, thickened waste activated sludge, digested sludge screenings and digester cleaning solids. The fine solids (grit, primary screenings, digested sludge screenings, digester cleaning solids) that consist of primarily inorganic materials are hauled away to landfills. The remaining solid fractions (primary sludge and skimmings, thickened waste activated sludge) are anaerobically digested onsite. The digested solids are screened <del>and</del> , then dewatered using centrifuges. Starting on January 1, 2003, the Hyperion Treatment Plant implemented full thermophilic digestion to generate Class A "EQ" biosolids. The biosolids

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			(treated sewage sludge) are beneficially reused offsite for land application and composting projects. The digester gas is cleaned and a major part of the gas is currently exported to the Los Angeles Department of Water and Power's Scattergood Steam Generating Plant, located immediately adjacent to the Hyperion Treatment Plant. The exported digester gas is used as fuel in the generation of electricity. In return, the generating plant provides power steam for digester heating for the Hyperion Treatment Plant. <del>The non-exported portion of the gas is used as fuel for in-plant boilers that provide steam to heat the anaerobic digesters.</del> <u>During interruptions in the export of steam from the DWP Scattergood Steam Generation Plant, digester gas can be used as fuel for in-plant boilers that provide steam to heat the anaerobic digesters.</u> Any remaining non-exported digester gas may be flared, if necessary, and is regulated under a flare operation permit from the South Coast Air Quality Management District (AQMD)."
<b>Response:</b>	Comment noted.		
<b>Actions:</b>	Changes have been made.		
10	Fact Sheet, Page F-6	Description of Hyperion Flow to West Basin in Fact Sheet	The first paragraph under "Description of Facility" should state that the 24 mgd differential in flow went to the West Basin Facility as reclaimed water as is done in Order at Page 5, Finding 14. Although this is mentioned on Page F-8 of the Fact Sheet, this explanation should be added to Page F-6 as well for clarity.
<b>Response:</b>	Comment noted.		
<b>Actions:</b>	Changes have been made.		
11	Order, Page 5, Finding 16, Water Reclamation	West Basin RO Brine Impacts on HTP Discharge	To support regional recycling efforts, the Bureau is allowing the West Basin Municipal Water District (WBMWD) to discharge reverse osmosis (RO) brine through the 5-mile outfall [and through the 1-mile outfall when necessary]. The effluent quality of this discharge is regulated under a separate permit issued to the West Basin MWD. Due to the increasing stringency of the HTP permit relative to toxic constituents where non-compliance with receiving water quality objectives could create liability for the City, the Bureau would like to ensure that the Regional Board recognizes the WBMWD's share of responsibility for any adverse receiving water conditions that may arise in the future related to the 5-mile and 1-mile outfalls. The Bureau requests that the HTP permit contain a Finding that any future agreement on allocation of responsibility for receiving water violations negotiated between the City and the WBMWD be added through a reopener to both the HTP and WBMWD NPDES permits.

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<b>Response:</b>			When USEPA and the Regional Board renew the WBMWD's brine discharge permit, the pollutant loading to the Hyperion effluent will be fully considered. Based on the existing monitoring data, it is unlikely that there will be any receiving water violations if both facilities consistently meet their discharge requirements. We believe that It is outside the scope of the NPDES permit to include any agreement on allocation of responsibility for receiving water violations negotiated between the City and the WBMWD. Therefore, it is not appropriate to provide a reopener for this purpose.
<b>Actions:</b>			None necessary.
12	Order, Page 5., Finding 18, Description of Outfalls and Fact Sheet, Section VI, Pages F8-F9.	Correction to Description of Outfalls related to Plant's Collection and Treatment of Stormwater	<p>As of September 2004, modifications to the south storm water piping system have been made that allow flows to be routed to the headworks for full treatment. All references to construction of a pipe modification to divert overflow from the south area from direct discharge into discharge serial No. 002 should be removed from the text as this work was completed prior to the issuance of this Tentative Permit. The following changes should be made to the Findings:</p> <p><u>"Discharge Serial No. 001 - this is commonly referred to as the "one-mile outfall". It is a 12-foot diameter outfall terminating approximately 5,364 feet (1.6 kilometers [km]) west-southwest of the treatment plant at a depth of approximately 50 feet (15 meters [m]) below the ocean surface (Latitude: 33° 55' 05" N; Longitude 118° 26' 52" W). This outfall is permitted for emergency discharge of chlorinated secondary treated effluent during extremely high flows, power failures, and preventive maintenance, such as routine opening and closing the outfall gate valve(s) for exercising and lubrication. However, during intense storms or storms associated with plant power outages, direct discharge of undisinfected storm water overflow is also permitted to this outfall. Storm water from the southern and central storm water drainage areas are routed to the headworks and combined with plant influent flow before receiving full treatment. However, during intense storms or</u> Also, during emergency power failures, <u>undisinfected storm water overflow from a catch basin in the south area of Hyperion Treatment Plant may be diverted and discharged directly to Discharge Serial No. 001.</u> This Order and permit require the City to notify the Regional Board and USEPA in advance of any planned preventive maintenance that results in discharges through Discharge Serial No. 001."</p> <p><u>"Discharge Serial No. 002 - this is commonly referred to as the "five-mile outfall". It is a 12-foot diameter outfall terminating approximately 26,525 feet (8.1 km) west-southwest of the treatment plant at a depth of approximately 187 feet (57 m) below the ocean surface. This outfall is located north of Discharge Serial No. 001 and ends in a "Y" shaped diffuser consisting of two 3,840-foot legs (Latitude: 33° 54' 45" N; Longitude: 118° 31' 15" W). This is the only outfall permitted for the routine discharge of undisinfected secondary treated effluent. Storm water from the north and central areas of the Hyperion Treatment Plant site, excluding the south area, is routed to the headworks and combined with plant influent flow before receiving full treatment. for treatment and discharge through Discharge Serial No. 002. Currently, storm water from the south area of the treatment plant drains to a catch basin which then discharges directly to Discharge</u></p>

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			<del>Serial No. 002; by December 2006, the City will eliminate the discharges directly to Discharge Serial No. 002 by constructing a diversion pipe to the headworks of the treatment plant. During emergency power failures, storm water overflow from this catch basin will not be pumped to the headworks for treatment and discharge through Outfall Serial No. 002, but will be discharged directly to Discharge Serial No. 001.</del>
<b>Response:</b>	Per Regional Board staff's request, the City submitted additional clarifications on Discharge Serial Nos. 001 and 002 on March 10, 2005. The above comment reflects additional clarifications. USEPA and the Regional Board agree with the City and have made appropriate changes.		
<b>Actions:</b>	Changes have been made.		
13	Main Document, Finding 18, Pages 6-7, Paragraph 1, 2, 3	Correction to Outfall Coordinates	<p>The end of pipe coordinates are incorrect. State of the art navigational technology permits accuracy to within 3 m (10 ft) for coordinates. The Bureau requests changing coordinates to reflect the accuracy now achievable with Differential Global Positioning Satellite (DGPS). The following coordinates were obtained by La Mer positioned over the respective outfall termini on Wednesday, September 29, 2004 using both DGPS and depth meter for optimal accuracy (given in decimal minutes).</p> <p>The Bureau requests that the Regional Board revise the coordinates as follows:            Discharge Serial No. 001 (1-mile) terminus – Latitude 33°55.095 and Longitude 118°26.844            Discharge Serial No. 002 (5-mile) terminus – Latitude 33°54.718 and Longitude 118°31.287            North terminus of wye structure – Latitude 33°55.160 and Longitude 118°31.709            South terminus of wye structure – Latitude 33°54.039 and Longitude 118°31.636            Discharge Serial No. 003 (7-mile) terminus – Latitude 33°55.622 and Longitude 118°33.183</p>
<b>Response:</b>	Comment noted.		
<b>Actions:</b>	Changes have been made.		
14	Order, Page 8, Finding 19, Table	Spelling Correction	Change "tributhltin" to "tributyltin".
<b>Response:</b>	Comment noted.		
<b>Actions:</b>	Changes have been made.		
15	Order Page 7, Finding 19	Remove Effluent Characteristics from Order and include in Fact Sheet Only.	The Tables on effluent characteristics are found in the Fact Sheet at Pages F-9 through F-13 and need not be duplicated in the permit since these merely represent background information and not regulatory numbers. In addition, this is just one year of data, not the entire range of data used to calculate reasonable potential, so this is not particularly helpful to the reader/user

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			of the permit anyway. Therefore, remove from Order and include in Fact Sheet only.
<b>Response:</b>	It is our routine practice to include the effluent characteristics Table in the permit. These data may reflect the current operation and condition of the treatment plant. In the permit, only detected pollutants are listed. The Table in the Fact Sheet covers all pollutants monitored.		
<b>Actions:</b>	None necessary.		
16	Fact Sheet, Page F-14. Part VIII, 2nd Paragraph	Provide Support or Remove "Alleged Impairments to Receiving Water."	This paragraph lists various alleged impairments to the Santa Monica Bay. The record should reflect evidence to support these allegations or these statements should be removed as not being supported.
<b>Response:</b>	USEPA and Regional Board staff agree that references should be added. The following references will be added to the paragraph:  [Santa Monica Bay Restoration Commission. 2004. "State of the Bay: 2004 Progress and Challenges", 45 pages; Santa Monica Bay Restoration Project. 1998. "Taking the Pulse of the Bay - State of the Bay 1998"].		
<b>Actions:</b>	Change has been made.		
17	Order, Page 10, Finding 24 and Fact Sheet, Pages F-14 and F-15	Atmospheric Deposition on the Santa Monica Bay	This section notes work that has been done on atmospheric deposition and is used to justify mass emission caps on metals, yet there is no analysis or data on whether these inputs alone would exceed the Ocean Plan's water quality objectives. If atmospheric deposition exceeds Ocean Plan's objectives, reductions should be through AQMD to limit air depositions of these metals and not through application of mass emission caps in Hyperion Treatment Plant's Tentative Permit.
<b>Response:</b>	This Section simply provides Santa Monica Bay aerial deposition study results that indicate aerial deposition is a significant contributor to the overall pollutant loading of trace metals to the Santa Monica Bay. However, we did not use this conclusion as the basis for setting mass emission caps for copper, lead, silver, and zinc, in the Tentative Permit. It is recommended in the Santa Monica Bay Restoration Plan that mass emission caps based on the 1995 loading level be established for these four metals.		
<b>Actions:</b>	None necessary.		
18	Order, Pages 11-12, Finding 28 and Fact Sheet, Page F-16	No MUN Beneficial Use for Santa Monica Bay	The Beneficial Uses of the receiving waters listed do not include a domestic and municipal supply (MUN) use, yet effluent limits are being set in this permit based on criteria adopted to protect only the MUN use. See Basin Plan at 3-15 (criteria for Radioactive Standards applicable only to "waters designated for use as domestic and municipal supply (MUN)"). Because MCLs only apply to an MUN use, the Bureau requests that the Regional Board remove all MCL limits for radioactivity.

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		Definitions	Also for consistency, please provide a definition for "Offshore Zone" as was done for "Nearshore Zone."
<b>Response:</b>	USEPA and the Regional Board staff agree that MUN is not listed as a beneficial use for Santa Monica Bay. However, since the descriptive water quality objective for radioactivity in the 2001 California Ocean Plan fails to establish an applicable narrative or numerical effluent limit for radionuclides, USEPA and Regional Board staff, based on Best Professional Judgement (BPJ), use radionuclide MCLs as effluent limits for radioactivity because it is the only scientifically-based regulatory criteria available.		
	There is no official definition for "Offshore Zone." However, we may consider that "Offshore Zone" is descriptive for any ocean water located beyond the "Nearshore Zone." It is not necessary to define "Offshore Zone" in the Permit.		
<b>Actions:</b>	None necessary.		
19	Order, Page 12, Finding 29, and Fact Sheet, Page F-16, Para. E	Applicability of Antidegradation Policy	Amend the following sentence as follows in both the Tentative Permit and Fact Sheet, if the duplicative findings found in the Fact Sheet are not removed from the Order: "As applicable, the State and federal policies are designed to ensure that a water body will not be degraded by a permitted discharge, <u>except in accordance with the degree of change in water quality recognized and allowed under Res. 68-16 and Water Code §13241 and §13263, or 40 C.F.R. §131.12.</u> "
<b>Response:</b>	The following underlined language, which is similar but more appropriate, will be added to the Paragraph:		
	"...by a permitted discharge, <u>except under the conditions established in the State Antidegradation Policy and the federal regulation.</u> "		
<b>Actions:</b>	Changes have been made.		
20	Order, Pages 12-13, Finding 31, and Fact Sheet, Page F-17, Para. G	CWA 303(d) Listed Pollutants	<p>The Bureau would like to note that none of the 303(d) listed pollutants/stressors are tied to exceedances of water column standards. Each of the listings is based on either sediment (for which no approved sediment quality objectives yet exist) or for fish tissue (where no applicable numeric water quality standards or objectives have been adopted). These listings, where there is no evidence that the City's discharge is currently causing these "impairments," should not be the basis for effluent limits imposed in the permit as these listings are not conclusive evidence of a lack of assimilative capacity in the ocean.</p> <p>Pursuant to several State Water Board orders, 303(d) listing by itself is not enough to require an effluent limitation for listed pollutants. The Regional Board must still find reasonable potential based on other factors. In addition, some of these listings may be removed during the 2004 303(d) review process based on recent fish tissue and sediment data.</p>



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<b>Response:</b>	Please refer to Finding 54 in the Tentative Permit and the response to Comment no. 6 in this response letter.		
<b>Actions:</b>	None necessary.		
21	Main document- Page 13, Finding 32.	Responsible Jurisdiction for Certain TMDLs	The City of Los Angeles, as the owner of Hyperion Treatment Plant, is identified as a responsible jurisdiction in certain TMDLs. The Bureau requests that the Regional Board strike "as the owner of Hyperion Treatment Plant" because the phrase is irrelevant and unnecessary.
<b>Response:</b>	USEPA and the Regional Board do not agree with the Bureau's comment. Finding 1 clearly states that the City of Los Angeles owns and operates the Hyperion Treatment Plant. The inclusion of the phrase "as the owner of Hyperion Treatment Plant" in Finding 32 is to reiterate the relationship between the City and the Hyperion Treatment Plant.		
<b>Actions:</b>	None necessary.		
22	Order, Page 13, Finding 32; Page 39, Provision I.A.7., and Fact Sheet, Page F-17, Para. H	Santa Monica Beaches Bacteria TMDL WLA for Hyperion	Although the Santa Monica Beaches Bacteria TMDL assigned the Hyperion Treatment Plant a wasteload allocation (WLA) of "zero days of exceedance of the single sample bacterial objectives during all three identified periods – summer dry weather, winter dry weather, and wet weather," the effluent limitations need not be identical, but only consistent with this WLA. See 40 C.F.R. §122.44(d)(1)(vii)(B) ("the permitting authority shall ensure that: effluent limits ... are consistent with the assumptions and requirements of any available wasteload allocation for the discharge"). The Bureau requests that the Regional Board consider allocating a different WLA other than zero days for the HTP plant.
<b>Response:</b>	The Dry Weather and Wet Weather Santa Monica Bay Beaches Bacteria TMDLs became effective on July 15, 2003. The WLA specified in the TMDLs for the HTP cannot be modified unless these TMDLs are revised in the future. If the permittee is requesting a change to the WLAs in the TMDLs, that should be addressed to the Regional Board separately from comments on this permit. The discharge requirements in the permit are consistent with the TMDLs and it is not necessary or appropriate to change them.		
<b>Actions:</b>	None necessary.		
23	Order, Page 13-14, Findings 33 and 34, and Fact Sheet, Page F-18	Water Quality Objectives and Effluent Limits	As stated previously, the proper place for information on the basis for permit requirements is in the Fact Sheet, not the permit. 40 C.F.R. §124.8 and §124.56. Furthermore, the bullets in the first section of Finding 33 and Paragraph XI.A. related to Region 9 & 10 Guidance for Implementing Whole Effluent Toxicity (WET) Programs and the WET Control Policy, if appropriate at all, belong in Finding 34 and Para. XI. B. as these are guidance documents, not adopted laws or regulations like the other things listed in the bullets in Finding 33 and Para. XI. A. Moreover, the reference to Best Professional Judgment should be removed as the

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			regulation cited (40 C.F.R. §122.44) does not allow the random inclusion of effluent limitations. This section, if applicable at all, sets forth specific instances and procedures for determining when effluent limitations must be applied in permits. See 40 C.F.R. §122.44("In addition to the conditions established under §122.43(a), each NPDES permit shall include conditions meeting the following requirements <u>when applicable</u> ")(emphasis added).
<b>Response:</b>	<p>The State Board and the Regional Boards are in the process of developing a standardized permit format, which will be used in the near future. However, until that process is complete, we will continue to write permits consistently with those we have issued in the past.</p> <p>The heading preceeding Findings 33 and 34 reads, "Basis for Effluent and Receiving Water Limits and Other Discharge Requirements," <u>not</u> laws and regulations. Since the USEPA Regions 9 and 10 Guidance Document for Implementing Whole Effluent Toxicity Programs was used in the development of some of the permit requirements, it is appropriate to include the document in the Findings as one of the reference materials.</p> <p>The inclusion of water quality based effluent limitations (WQBELs) in an NPDES permit is not random. WQBELs are included in a permit if reasonable potential has been established, according to 40 CFR 122.44(d). In fact, some limits have been deleted from the permit because there was no reasonable potential for the discharge to cause, or contribute to, an exceedance of a water quality objective.</p>		
<b>Actions:</b>	None necessary.		
24	Order, Page 14, Finding 35, and Fact Sheet, Page F-18, Para. C	Justification of Narrative Water Quality Objectives	The use of 40 C.F.R. §122.44(d) to justify effluent limitations based on narrative water quality objectives or criteria is inappropriate. Federal regulations require that "[w]here a State adopts narrative criteria for toxic pollutants to protect designated uses, the State must provide information identifying the method by which the State intends to regulate point source dischargers of toxic pollutants on water quality limited segments based on such narrative criteria. Such information may be included as part of the standards..." See 40 C.F.R. §131.11(a)(2). Therefore, in order to implement a narrative water quality objective through the permitting process, the Regional or State Board must first identify the method for "translating" the narrative criteria into a number and then actually translate the narrative objective into a numeric effluent limitation, with the explanation of the latter translation set forth in the Fact Sheet. See SWRCB Order No. WQO 95-4. Furthermore, before the Regional Board may impose numeric effluent limitations based upon a proper translation of a narrative water quality objective, the Regional Board must consider the factors set forth in Cal. Water Code § 13241, including economics and the status of the waterbody, for the newly translated objective. See Cal. Water Code §13263(a). If this Finding is maintained either in the permit or the Fact Sheet, the last sentence should be amended to change the word "fully" to "reasonably" in accordance with the requirements of Water Code §13263(a).

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<b>Response:</b>			<p>The issue of adopting numeric WQBELs to implement narrative WQOs was already addressed by the State Board in its precedential Order WQO 2002-0012, in the Matter of the petition of East Bay Municipal Utility District (EBMUD) and Bay Area Clean Water Agencies [SWRCB/OCC Files A-1396 and A-1396(a)]. In its precedential EBMUD decision, the State Board found that federal regulations (40 CFR 122.44) clearly require effluent limitations to enforce narrative WQOs and that such federal requirements prevail over California Water Code provisions for NPDES issues.</p> <p>The City referenced 40 CFR Part 133.11(a)(2), however, they failed to include the entire citation, which reads as follows, in its entirety (underlined portion was omitted by the City): "Such information may be included as part of the standards <u>or may be included in documents generated by the state in response to the Water Quality Planning and Management Regulations (40 CFR Part 35).</u>" In addition to the Ocean Plan, the Water Quality Control Plan for the Los Angeles Region, commonly referred to as our "Basin Plan", contains that information.</p> <p>Pursuant to the California Water Code, economics only need to be considered if the State were to adopt a new standard. Economics do not need to be considered during the NPDES permitting process.</p> <p><b>Actions:</b> No change is necessary.</p>
25	Order, Page 14, Finding 36, and Fact Sheet, Page F-18, Para. D	Mass Limits	As stated in the cover letter, the Bureau appreciates the proposed removal of the kg/day requirements found in the previous permit. However, the Bureau has other issues and concerns related to mass limits, which have been detailed in the attached cover letter.
<b>Response:</b>			Please refer to the appropriate section in the response letter.
<b>Actions:</b>			Please refer to the appropriate section in the response letter.
26	Order, Page 14, Finding 37, and Fact Sheet, Page F-19, Para. E	Impracticability Analysis Required Prior to the Imposition of Daily Max Limits	<p>Without any evidence cited support, this Finding overarchingly concludes that "it is impracticable to include only average weekly and average monthly effluent limits in the permit, because a single daily discharge of certain pollutants, in excess amounts, can cause violations of water quality objectives. The effects of pollutants on aquatic organisms are often rapid." See also Fact Sheet at F-25. The impracticability analysis required by 40 C.F.R. §122.45(d)(2) must be done on each individual effluent limit, not as a blanket statement without supporting evidence that is really no analysis at all. As such, the Regional Board must analyze the following constituents for impracticability of weekly average limits in lieu of the currently proposed daily and/or instantaneous maxima: Oil &amp; Grease, Settleable solids, Turbidity, Total Chlorine Residual, Acute Toxicity, Chronic Toxicity, Radioactivity, including Gross alpha, Gross beta, radium-226 + radium-228, Tritium, Strontium-90, Uranium, Copper, Cyanide, Ammonia as N, Phenolic Compounds (chlorinated), and HCH.</p> <p>The Regional Board continues to not recognize the exemption for publicly owned treatment works under 40 C.F.R. §122.45(d)(2) and is improperly applying the requirements of Section 122.45(d)(1), applicable only to industrial discharges, to justify daily limits and presumably</p>

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			<p>instantaneous maximum limits. Weekly averages to meet daily or instantaneous objectives contained in the Ocean Plan are not per se impracticable, even for constituents regulated to protect aquatic life. See 40 C.F.R. §122.2 (definition of “average weekly discharge limitation” demonstrates how such limits may be derived practicably from “daily discharges”).</p> <p>In the case of <i>City of Ames, Iowa</i>, EPA Environmental Appeals Board, NPDES Appeal No. 94-6 (Apr. 4, 1996) EPA contended that a maximum daily limit for <u>ammonia</u> may be imposed because it is impracticable to meet water quality standards by using an average weekly limit. The hearing officer determined that EPA’s contention was not well founded, as it is practicable to meet water quality standards using an average weekly limit for ammonia. The decision stated that this issue of fact was relevant to the pertinent decision in that the use of the maximum daily limit in the NPDES permit may have the effect of unreasonably increasing the risk of non-compliance with a resulting substantial increase in operating costs to avoid non-compliance. The hearing officer determined, “as the regulation makes clear, the Regional Administrator does not have unlimited discretion to include daily limits; maximum daily limits may be included in a permit for a POTW only if weekly average limits are impracticable.” On remand, the Regional Administrator was directed to reconsider the factual issue of whether it would be practicable to state the effluent limitations as weekly and month averages. If it would be practicable, then such averages were to be included in the permit and the daily maximum and instantaneous limits should be removed and replaced with weekly averages. This decision is binding upon EPA Region IX. Similar decisions are binding upon the Regional Board. See <i>City of Los Angeles v. SWRCB and LA Regional Board</i>, Los Angeles Superior Court, Case No. 060957 at 12-13 (Apr. 4, 2001)(daily max issue not appealed by SWRCB or LA Regional Board, and therefore is binding on the Boards); <i>In the Matter of East Bay MUD</i>, State Board Order No. WQO 2002-0012.</p> <p>Reliance upon the Ocean Plan is unfounded, because prior to authorizing the use of daily maximum limitations in POTW permits for compliance with aquatic life criteria, the SWRCB did not properly demonstrate or include evidence that the imposition of average weekly and average monthly effluent limitations for the protection of aquatic life is “impracticable” per the requirements of 40 C.F.R. §122.45(d). Therefore, any alleged authorization of daily maximum limitations for POTW for compliance with aquatic life criteria based on the Ocean Plan must fail as inconsistent with federal requirements. See Water Code §13372 (requiring state program to be consistent with federal requirements under the CWA). As such, the Regional Board should remove all daily maximum final effluent limitations based on aquatic life criteria unless and until the Regional Board conducts an individualized analysis of each constituent and provides evidence in the record of impracticability.</p> <p>Furthermore, some of the daily or instantaneous maximum limits included in the tentative permit are for long-term human health protection (designed to provide protection for 70 years</p>

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			of exposure, not for acute effects). These limits are for constituents, such as those for radioactivity are based upon MCLs, which are regulated as annual averages in the drinking water context for which they were designed. See Fact Sheet at Page F-28. There is no evidence that these limits are impracticable to apply as monthly or longer averages.
<b>Response:</b>	<p>The lawsuit brought forth by the City against the State Board and the Los Angeles Regional Board has not yet been resolved, and as such, should not be cited. A decision by the California Supreme Court is still pending.</p> <p>USEPA and the Regional Board are not precluded by 40 CFR Part 122.45(d)(1) from setting daily or instantaneous maximum limits for POTWs and EPA recommends such limits, in lieu of weekly average limits, for POTWs in water quality based permitting (see TSD, Section 5.2.3). The issue of adopting daily maximum and instantaneous maximum limits for POTWs was already addressed by the State Board in its precedential Order WQO 2002-0012, in the Matter of the petition of East Bay Municipal Utility District (EBMUD) and Bay Area Clean Water Agencies [SWRCB/OCC Files A-1396 and A-1396(a)]. In its precedential EBMUD decision, the State Board found that the Regional Board properly used daily maximum effluent limitations in the permit to protect against acute water quality effects and that doing so was in accord with EPA's guidance on writing water quality-based permits. Nonetheless, on remand, the State Board directed the Regional Board to include a finding in the permit explaining the impracticability of weekly average limits. The Hyperion permit is consistent with the EBMUD precedential Order, because the permit already contains a Finding explaining the impracticability of weekly average limits. Finding #37 serves that purpose. Therefore, no change is necessary.</p> <p>Furthermore, the Ocean Plan, <u>does</u> authorize and specify the use of daily maximum effluent limitations and includes long-standing well-received implementation procedures for directly calculating such effluent limits. Other NPDES permits for POTWs with ocean outfalls also contain daily maximum effluent limitations.</p> <p>The discharge limitations for radioactivity are based upon the best available science.</p>		
<b>Actions:</b>	No change is necessary.		
27	Order, Page 15, Finding 38	City Jurisdiction over Pretreatment Programs Outside City's Jurisdiction	<p>The issue of the City exercising jurisdiction and control over pretreatment programs located outside the political boundaries of the City has been discussed on numerous occasions with the legal representatives of Region IX. Specifically, Hugh Barroll, Region IX Counsel, has discussed this issue with representatives of the City and both sides have recognized that the City may not be able to exercise extra-territorial jurisdiction within the boundaries of its contract cities because of existing state law. There is no provision within the Constitution of the State of California that allows a Charter city with co-equal powers to override the authority of another Charter city.</p> <p>For this reason, the Bureau requests that the Regional Board revise the second paragraph of the Finding 38 as follows:</p> <p>"This Order and permit include the City's approved Pretreatment Program and require the City</p>

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			to continue implementation of the Program throughout the Hyperion Treatment Plant's service area; <del>including contributing jurisdictions.</del>
<b>Response:</b>	Please refer to response to Comment No. 25 in the response letter.		
<b>Actions:</b>	Please refer to response to Comment No. 25 in the response letter.		
28	Order, Page 15, Finding 41, and Fact Sheet, Page F-20, Paragraph I	Delete Recitation of Possible Justifications under the Clean Water Act	Each effluent limitation must be justified as to its individual basis. This recitation of possible justifications is irrelevant and should be deleted as unsupported by the evidence.
<b>Response:</b>	This is standard language found in all NPDES permits. Finding 41 merely references the specific sections of the Clean Water Act which are applicable to the discharges regulated by the NPDES Order and permit. No change is necessary.		
<b>Actions:</b>	None necessary.		
29	Order, Page 16, Finding 42, and Fact Sheet, Page F-20, Paragraph J	Effluent Limitation Guidelines	This Paragraph states that "the effluent limitations contained in this Order are at least as stringent as existing effluent limitation guidelines..." There are no effluent limitation guidelines applicable to POTWs, only to categorical industries. Therefore, the word "guidelines" should be removed from this sentence.
<b>Response:</b>	USEPA and the Regional Board agree with the Bureau. Changes have been made as proposed.		
<b>Actions:</b>	Changes have been made.		
30	Order, Pages 16-17, Finding 45, and Fact Sheet, Page F-21, Para. M	Water Quality Based Effluent Limits (WQBELs) need not be Numeric	This Finding states that if a discharge causes or has the reasonable potential to cause an exceedance of an applicable water quality standard, then the permit must contain a water quality based effluent limit (WQBEL). What this finding fails to state is that the WQBEL need not be a <i>numeric</i> effluent limit. This finding should state that federal regulations envision a review of feasibility at the wastewater permitting stage to determine if strict numeric effluent limits must be required, or whether more flexible Best Management Practices ("BMPs") can be imposed instead. (40 C.F.R. §122.44(k)(3); <i>Communities for a Better Environment v. State Water Resources Control Board</i> (2003) 109 Cal.App.4th 1089, 1104 [1 Cal.Rptr.3d 76], reh'g. den., 2003 Cal.App. LEXIS 1082 (1st. Dist. June 27, 2003), cert. den., 2003 Cal. LEXIS 7251 (Sept. 24, 2003)(finding alternative effluent control strategies, source control measures, and best management practices to be valid alternatives to numeric effluent limits pursuant to 40 C.F.R. §122.44(k)).

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<b>Response:</b>	40 CFR 122.44(k)(2) clearly states that NPDES permit shall include Best Management Practices (BMPs) to control or abate the discharge of pollutants when numeric effluent limitations are infeasible. The term “infeasible” relates to the determination of what the scientifically-based criteria should be, not the difficulty in complying with it. Federal regulations clearly do not exclude the imposition of numeric WQBEL. Therefore, the statement in Finding 45 is appropriate.		
<b>Actions:</b>	None necessary.		
31	Order, Page 17, Finding 45, and Fact Sheet, Pages F-21, Paragraph M, and F-26, Paragraph B.3.	Water Quality Based Effluent Limits (WQBELs) Based on Six-Month Median	<p>The Findings state that the Regional Board used the <u>minimum</u> dilution, thereby acknowledging that limits based on these minimum dilution ratios are already conservative as the dilution may exceed this minimum ratio.</p> <p>Further, the Regional Board set monthly average limits based on the long-term average Ocean Plan objective, which is set as a six-month median. There is no need to set these limits as a monthly average and other Regional Boards set the limits as six-month medians without objection from U.S. EPA Region IX. Thus, different dischargers in different regions are being treated differently without reason, thereby violating the laws requiring equal protection. For these reasons, the Regional Board should set long-term average limits derived from the Ocean Plan six-month median objectives as six-month median limits.</p> <p>If the six-month median standard is being attained for the constituents at issue, the effluent limitation may be revised so long as the revision is subject to and consistent with antidegradation policies. 33 U.S.C. §1313(d)(4)(B) and §1342(o)(1). Further, there are likely exceptions to the general rule against backsliding that would apply in this case to justify the imposition of effluent limits based on a 6-month median.</p>
<b>Response:</b>	While the 2001 California Ocean Plan does list a six-month median for metals and a select group of constituents, it does not preclude the Regional Board from imposing average monthly limitations. In fact, 40 CFR section 122.45(d)(2) specifies that average monthly discharge limitations should be imposed for continuous discharges from POTWs. The limitations expressed in Hyperion’s permit are consistent with other Ocean POTW discharge permits issued by the Regional Board.		
<b>Actions:</b>	None necessary.		
32	Order, Page 17, Finding 48, Page 36, Footnote [6], and Page 50, Provision VI.H; Fact Sheet, Pages F-22, Paragraph P	Timing for USEPA Consultation with the Services	The Findings state that “USEPA may engage in consultation with the Services during, and subsequent to, this permit reissuance.” Any consultation should be concluded prior to adoption of this permit. As the permit expired in 1999 and has been due for re-adoption since then, there would not seem to be any reason why consultation should not be complete.

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<b>Response:</b>	USEPA retains the right to consult with the National Marine Fisheries Service and the U.S. Fish and Wildlife Service (collectively, the Services) at any time during the tenure of this permit, because issues surrounding fish habitat and threatened and endangered species are complex, and as new data is collected, new issues may arise. The reopener provision to this effect will remain in the permit.		
<b>Actions:</b>	None necessary.		
33	Order, Page 17, Finding 49	Mischaracterization of Municipal Treatment Plants; Mass Caps	In this finding regarding the Santa Monica Bay Restoration Plan, municipal treatment plants are incorrectly identified as the "source" of pollutants, when in reality the treatment plants operate as a facility that provides treatment of residential and industrial waste streams to a level regulated by the Regional Board through the issuance of a NPDES permit. The treatment plants are a conduit or "point source" of discharge to a receiving water. The mass emission caps identified for the metals in this section are improperly applied to the City as much of the metals loading is the result of air-deposition.
<b>Response:</b>	Since the discharged effluent from the treatment plants contains pollutants with concentrations higher than those in the receiving water, it is appropriate to consider the treatment plants as "source" of pollutants. Please also refer to the response to Comment no. 17 in the response letter.		
<b>Actions:</b>	None necessary.		
34	Order, Page 17, Finding 49	Santa Monica Bay Restoration Plan and Mass Emission Performance Caps	The metals discussed in this section are earlier described as being the result of air deposition, yet the treatment plant is being penalized for pollutants that are not primarily the result of its discharge through the imposition of mass emission caps. Furthermore, basing these caps on the HTP's 1995 average flow is arbitrary, unnecessary, and without justification. The Bureau requests that the mass emission caps for these metals be deleted, or at the very least be based on the plant's current design capacity of 450 MGD.
<b>Response:</b>	Please refer to the response to Comment no. 17 in the response letter. The Mass Emission Caps are set at the 1995 actual loading levels. They were not the allowable discharge levels based on the plant design capacity in 1995. Therefore, the design capacity of the HTP shall not be used in the estimate.		
<b>Actions:</b>	None necessary.		
35	Order, Pages 18-21, Reasonable Potential Analysis, and Fact Sheet, Pages F-22 to F-24	Calculation of Reasonable Potential (RP)	The Reasonable Potential Analysis (RPA) conducted for the proposed permit utilizes statistically invalid and overly conservative methods to determine RP. The Bureau's detailed comments regarding the proposed RPA are provided in the cover letter to the comments package.



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<b>Response:</b>	Please refer to the response to Comment no. 1 in the response letter.		
<b>Actions:</b>	None necessary.		
36	Order, Page 20, Finding 55, and Page 45, Provision V.D., and Fact Sheet, Page F-24, Para. D.	Determination of RP	<p>This finding states that where there is no reasonable potential to cause or contribute to excursions above the applicable water quality objective, “no numerical limits are prescribed; instead a narrative limit to comply with all Ocean Plan objectives is provided and the Discharger is required to monitor for these constituents...” If there is no reasonable potential, there is no authority for a limit, numeric or narrative. Thus, this sentence should be corrected to read: “no numerical limits are prescribed; instead <del>a narrative limit to comply with all Ocean Plan objectives is provided and the Discharger</del> <u>the permit requires</u> to monitoring for these constituents...” This is consistent with the State’s Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California at section 1.3. If based on the monitoring data, reasonable potential is found, then the permit contains a reopener provision to allow the Regional Board to add an effluent limit at that time. See Order, Page 50, Provision VI.A, and Fact Sheet, Page F-25, first paragraph. For these reasons, the Regional Board should remove Provision V.D. for lack of reasonable potential to exceed these objectives.</p> <p>Regarding the last sentence for Finding 55, the proposed procedure to apply numeric effluent limits to constituents without RP because the performance goal is less stringent than calculated numeric limits is contrary to the long standing EPA process for establishing WQBELs. Such constituents should be given a PG only, if specifically regulated at all. Effluent limits should only be given where there is reasonable potential.</p>

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<b>Response:</b>	<p>USEPA and the Regional Board staff have stated that no WQBELs should be prescribed for constituents which do not show RP and when antibacksliding/antidegradation regulations and policies allow for the removal of such WQBELs. However, we believe other Ocean Plan requirements should still be applied. Therefore, Finding 55 (page 20) and Provision V.D. (page 45) are revised as follows:</p> <p>"..., no numerical limits are prescribed; instead a narrative <del>limit</del> <u>statement</u> to comply with all Ocean Plan <del>objectives</del> <u>requirements</u> is provided and the Discharger is required to monitor for these constituents..."</p> <p>The waste discharged shall comply with all <u>applicable</u> Ocean Plan and applicable Basin Plan <del>objectives</del> <u>requirements</u>.</p> <p>USEPA and the Regional Board staff agree with the Bureau that it is not appropriate to apply effluent limits for constituents which do not show RP because the PG Is less stringent than calculated numerical limit. Therefore, the last sentence in Finding 55 is deleted as follows:</p> <p><del>"However, if a performance goal established in accordance with the procedures in Finding 61 is higher than the respective calculated permit limit, even though the constituent has been determined to have no reasonable potential, a permit limit instead of performance goal is prescribed."</del></p>		
<b>Actions:</b>	Changes have been made.		
37	Order, Page 20, Finding 56	No RPA for Acute Toxicity	As stated in the cover letter, the new permit should not contain an effluent limit for acute toxicity unless monthly acute toxicity test results (required in the current permit) trigger reasonable potential. The Regional Board staff made no attempt to perform a RPA for acute toxicity. Acute toxicity data exist and should have been used to determine whether a permit limit is warranted, rather than assume that ammonia levels in the HTP effluent are causing or will cause acute toxicity. Effluent data collected by the Bureau indicate that the effluent is <u>not</u> causing acute toxicity and all the maximum ambient receiving water values were well below the 600 ug/L chronic ammonia objective set forth in the 2001 California Ocean Plan (Max Observed was 484 ug/L). The data for the 002 discharge for 1/99-2/02, and for all of 2003, show that the 002 effluent did not violate the 1994 acute toxicity limits, nor would it have violated the proposed 002 daily maximum of 2.8 TUa. Therefore, there is no Reasonable Potential for acute toxicity or ammonia. Reasonable potential should be based on HTP's plant performance, not on general characterizations reportedly based on the data of other plants that are not relevant to HTP and not specifically supported in the findings. The Bureau's detailed comments regarding toxicity issues are provided as Attachment 6 to the cover letter included in this comments package.
<b>Response:</b>	Please see response to Comment no. 12 (including Attachment 6).		
<b>Actions:</b>	Please see response to Comment no. 12 (including Attachment 6).		
	Order, Page 21,	Incorrect Application of	State and federal anti-degradation policies require that the quality of the water not be

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38	Finding 57, and Fact Sheet, Page F-24, Para. E.	Mass Emission Rates to Address Antidegradation Policy	<p>unreasonably degraded and that beneficial uses be maintained. These two policies do not individually or collectively limit the increase of mass emissions unless the mass emissions have been demonstrated to impact the beneficial uses. The language currently contained in the draft HTP permit takes a very narrow view of the anti-degradation policy such that there shall be no new molecule of the constituent at issue discharged. Such an interpretation is not supported by State Water Board's administrative guidance or case law. Under the interpretation proposed by Finding 57, the anti-degradation policies could be used to restrict growth within the City of Los Angeles and throughout California, which was not the intent of these policies.</p> <p>Any pollutant mass emission rates in the proposed permit should be based on the 450 mgd treatment capacity of HTP, not the 420 mgd cited in Finding 57. See 40 C.F.R. §122.45(b)(1). Use of the lower capacity figure results in artificially and unnecessarily low mass emission rates.</p>
<b>Response:</b>	USEPA and the Regional Board have not limited the permittee's ability to increase mass emission rates during this permit term. Indeed, the Tentative Permit, consistent with the previous permit, allows the City to increase its mass emission rate by more than 80 million gallons per day (mgd) during the coming permit term. USEPA and the Regional Board note that the City's own projected end-of-permit flow is about 400 mgd and that the economic justification to increase discharge mass emission rates from 340 mgd to 450 mgd has not been justified in accordance with State and federal antidegradation policies, by the permittee. The purpose of these policies – and the Clean Water Act – is to attain and maintain the chemical, physical, and biological integrity of the Nation's waters		
<b>Actions:</b>	None necessary.		
39	Order, Pages. 21-23, Performance Goals, and Fact Sheet, Pages F-34 to F-35	Performance Goals should not be More Stringent than Actual Plant Performance	The Performance Goals (PGs) prescribed in the proposed permit are considerably more stringent than historical plant performance, and will require the City to expend scarce resources on unnecessary investigations, studies, and reports. This burden has not been adequately analyzed by the Regional Board in accordance with the statutory mandates of Water Code sections 13267(b) and 13225(c). The Bureau's detailed comments regarding the proposed PGs are provided in the Bureau's cover letter to the comments package.

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<b>Response:</b>	The PGs are based on the actual performance of the HTP and are set according to the procedures specified in Finding 61 of the Tentative Permit. If the City thinks the PGs are too stringent, the City may request modification of PGs by the Executive Office and USEPA when the changes could be warranted.		
	The cost analysis provisions upon which Discharger relies have no application to waste discharge requirements that serve as an NPDES permit. The Permit was issued under the authority of chapter 5.5 (commencing with section 13370) of Water Code which governs waste discharge requirements that serve as federal permits. Water Code, Section 13383 provides the authority for the monitoring requirements in the Permit. Section 13383 authorizes the Regional Board to "establish monitoring, inspection, entry, reporting, and recordkeeping requirements, as authorized by sections 13160, 13376, or 13377 or by subdivisions (b) and (c) of this section, for any person who discharges, or proposes to discharge, to navigable waters."		
<b>Actions:</b>	None necessary.		
40	Order, Page 25, section 2.	Investigation Required for Exceedance of Performance Goals	If all performance goals were set to 95 percentile there will be a built-in 5% exceedance rate for these goals (it doesn't mean it will only occur once every 20 samples, similar to the concept of the 100-year storm). This would lead to the City expending scarce resources on investigations, studies, and reports even if the plant treatment processes are performing at peak efficiencies. Requiring an investigation, even where the magnitude of the exceedance is not excessive, is unreasonable. If the PGs are not removed as requested, then the requirement for investigation should be changed to "three consecutive" exceedances. This would at least conserve some of the City resources that could be used effectively for other studies required under the Tentative Permit.
<b>Response:</b>	USEPA and Regional Board staff agree that the investigation will be required when there are "three consecutive" exceedances of Performance Goals.		
<b>Actions:</b>	The change has been made.		
41	Order, Page 23, Finding 62, and Pages 39-40, Provision I.B., and Fact Sheet, Pages F-33 and F-34	Mass Emission Benchmarks and Caps	<p>The mass emission caps are unnecessary as there is no finding of reasonable potential for any of these constituents, except copper from the 001 outfall. Furthermore, these caps are calculated on average flows instead of design flows, and are rounded down (except for silver), both of these actions make the caps artificially and unnecessarily low. The emission caps for the metals, if not deleted, should at the very least be based on the plant's present design flow of 450 MGD and not on some arbitrary 1995 flow rate of 347 mgd. Consideration should also be given to the fact that the plant has been redesigned since 1995 and that the City's population has also grown during this time period. The justification provided for the caps is air deposition, which the HTP has no control over.</p> <p>Mass emission caps in lbs/year for Cu, Pb, Ag, and Zn based on the 1995 flow rate are set at</p>

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			<p>41100, 2700, 5500, and 59100, respectively. If not removed, these caps must be revised to reflect the design capacity of 450 mgd, resulting in amended caps in lbs/year for Cu, Pb, Ag and Zn of 53400, 3600, 7100, and 76700, respectively.</p> <p>As discussed on the Bureau's comments for Finding 11, the 12-month averaging period will include mass emissions from urban storm water diverted to the Hyperion collection system. Any mass emission caps or limits in the permit will need to take into account constituents from urban runoff, which HTP has no ability to fully control.</p>
<b>Response:</b>	Please refer to response to Comments nos. 15, 16 and 17 in the response letter.		
<b>Actions:</b>	None necessary.		
42	Order, Page 25, section 2.	Performance Goals for One-Mile Outfall	If PGs are not removed from the Tentative Permit, these PGs should not be applied to the One-Mile Outfall. The term "Performance Goal" implies continuous use. The City of LA only uses the outfall once or twice per year during an emergency situation to ensure proper maintenance of the gate arms. These occurrences usually last less than one hour. There is absolutely no reason or justification for assigning PGs to a discharge that is used only for emergency purposes and does not reflect the normal operation of the plant's treatment process.
<b>Response:</b>	USEPA and Regional Board staff agree that performance goals were not calculated for emergency purposes. Consequently, PGs for discharges from Outfall 001 have been removed from the Permit.		
<b>Actions:</b>	Changes have been made.		
43	Order, Pages 23-24, Findings 66 and 67 and Page 45, Provision V.A., and Fact Sheet, Page F-3	Petition Requirements	The section on Federal NPDES Permit Appeals should clarify whether both a state and federal appeal of the permit must be made to challenge its requirements, or if one or the other may be taken up on appeal in isolation. Further, the Tentative Permit and Fact Sheet reference a <u>33 day period</u> in which appeal can be made, but the federal regulations specify that "within <u>30 days</u> after a ... NPDES ... final permit decision" has been issued, any person may petition the Environmental Appeals Board for review. The 30-day period within which a person may request review begins with the service of notice of the Regional Administrator's action unless a later date is specified in that notice. 40 C.F.R. §124.19(a). The Bureau requests that the timing and petition requirements be clarified.

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<b>Response:</b>	EPA regulations indicate that the 30-day period within which a person may request review of a permit begins with "service of notice" of the permit decision. 40 CFR 124.19(a), 124.15(b). EPA is setting the effective date of the federal permit, and the deadline for appeal, at 33 days following the date of mailing to account for the time necessary for mail delivery and actual service. We are doing this so as to avoid any confusion that could result from service on different parties on different days. If an individual wishes to challenge the jointly issued permit, both a federal appeal and a state petition must be filed. If this is done, the state and federal agencies may determine that a particular challenge process will take precedence.		
<b>Actions:</b>	None necessary.		
44	Order, Page 24, Findings 68	CEQA Requirements	In this Finding, the Regional Board states that the issuance of waste discharge requirements for this discharge is exempt from the California Environmental Quality Act (CEQA), Public Resources Code, Chapter 3, Division 13 in accordance with Water Code Section 13389. However, the finding fails to address CEQA compliance by the Regional Board in adopting this Waste Discharge Requirements (WDRs). Pursuant to California Water Code §13389, the Regional Board is not totally exempt from CEQA when adopting WDRs. Although the Regional Board may not be required to meet all of CEQA's stringent Environmental Impact Report (EIR) requirements contained in Chapter 3 of the Public Resources Code when adopting waste discharge requirements, the Regional Board must still comply with the rest of CEQA, including an analysis of the environmental impacts that would likely result from the proposed permit requirements, alternatives to the proposed requirements, and mitigation measures necessary to address these potential impacts. See e.g., Pub. Res. Code 21002.
<b>Response:</b>	Multiple appellate courts have held, consistent with the federal NEPA exemption for NPDES permits, that California's CEQA exemption for NPDES permits does not require the water boards to analyze the environmental impacts of an NPDES permit. One of those cases involved the City of Los Angeles. While that decision is currently under review by the California Supreme Court, the court has indicated that it does not intend to review the CEQA aspect of the case. The Regional Board, therefore, anticipates no change to the Court of Appeal's decision on this point. The documentary exemption in section 13389 is effectively an exemption from CEQA. Moreover, the CEQA exemption in section 13389 of the Water Code has been recognized by the State Board as requiring the regional water boards to consider any environmental documents prepared for a specific project. If the City wishes to submit any future environmental documents for plant upgrades, the Regional Board will review them.		
<b>Actions:</b>	None necessary.		
45	Order, Page 24, Order Language	Order Requirements	The Order section of this page orders the City to meet not only the provisions of statutes and regulations, but also guidelines adopted thereunder. Since guidelines have not been adopted by regulatory process, imposition of the "requirements" contained in guidelines becomes an exercise in underground rulemaking in violation of the federal and California Administrative Procedures Acts. For this reason, the word "guidelines" must be removed from all places within the paragraph beginning "IT IS HEREBY ORDERED..."

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<b>Response:</b>	Some U.S. EPA guidelines carry the full force of regulations (e.g., effluent limitation guidelines are regulations). It is not necessary to remove the general reference to guidelines. However, to the extent the commenter identifies specific requirements that are not based in appropriate law or regulation, the Regional Board would consider removing the requirement or documenting the basis for the requirement beyond the extensive findings and fact sheet already prepared.		
<b>Actions:</b>	None necessary.		
46	Order, Page 24, I.A.1.a.	Discharge Outfall Serial No. 001	<p>The Hyperion Treatment Plant captures and treats (up to the capacity of the individual storm water collection pumping systems) storm water flows from within the plant perimeter. That flow exceeding the pumping capacity of the individual catch basins flows by gravity and is discharged through the One-Mile Outfall. If the storm is of light intensity and short in duration, virtually all of the storm water collected on the plant site will be sent to the headworks for full treatment. Only that portion of the storm water flow exceeding the pumping systems is discharged through the One-Mile Outfall. This capture of stormwater theoretically removes the accumulation of any trash from the system (from gutters and catch basins), as well as captures flows that may contain higher bacterial levels attributed to routine plant operations. Additionally, the plant does not have the means to chlorinate that portion of the storm water flow that exceeds the first flush pumping capacity. The following description of the One-Mile Outfall should be revised as follows:</p> <p>Discharge Serial No. 001 (one-mile outfall)</p> <p>Wastes discharged from Discharge Serial No. 001 shall be limited to chlorinated secondary treated effluent. <u>However, during intense storms or storms accompanied with plant power outages, undisinfected storm water overflow is also permitted to this outfall.</u> <del>(domestic and industrial wastewater, diverted dry weather urban runoff, and storm water from Hyperion Treatment Plant).</del> In addition, during emergency power failures <u>and during intense rainstorms, direct discharge of effluent consisting of chlorinated storm water overflow from the catch basins in the south and central areas of the treatment plant is also permitted to this outfall.</u> Discharge from Discharge Serial No. 001 is only permitted for emergency cases such as extremely high flows and power failures, and for quarterly preventative maintenance to conduct outfall gate valve(s) exercising and lubrication.</p>

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<b>Response:</b>			<p>Per Regional Board staff's request, the City submitted additional clarifications on Discharge Serial Nos. 001 and 002 on March 10, 2005. The above comment reflects additional clarifications. USEPA and the Regional Board have revised the description of Discharge Serial No. 001 (Section I.A.1.a.) of the Tentative Permit to the following:</p> <p>a. Discharge Serial No. 001 (one-mile outfall)</p> <p>Wastes discharged from Discharge Serial No. 001 shall be limited to chlorinated secondary treated effluent. (domestic and industrial wastewater, diverted dry weather urban runoff, and storm water from Hyperion Treatment Plant). <del>However, during intense storms or storms accompanied with plant power outages, undisinfected storm water overflow is also permitted at this outfall. In addition, during emergency power failures direct discharge of effluent consisting of chlorinated storm water overflow from the catch basin in the south area of the treatment plant is also permitted to this outfall.</del> Discharge from Discharge Serial No. 001 is only permitted for emergency cases such as extremely high flows and power failures, and for quarterly preventative maintenance to conduct outfall gate valve(s) exercising and lubrication.</p> <p><b>Actions:</b> Changes have been made.</p>
47	Order, Page 24, I.A.1.b.	Discharge Outfall No. 002	<p>Direct discharge of storm water from the catch basin in the south area of the plant was terminated in September 2004 when plant construction activities modified and diverted storm water flows to the headworks facility. Then following modifications to the text more correctly reflection current conditions:</p> <p>A.1.b Discharge Serial No. 002 (five-mile outfall)</p> <p>Wastes discharged from Discharge Serial No. 002 shall be limited to secondary treated effluent (domestic and industrial wastewater, diverted dry weather urban runoff, and storm water from Hyperion Treatment Plant). <del>In addition, direct discharge of effluent consisting of storm water from the catch basin in the south area of the treatment plant is permitted to this outfall until January 1, 2007, when the direct discharge of this effluent to this outfall shall be terminated.</del></p>
<b>Response:</b>			<p>Per Regional Board staff's request, the City submitted additional clarifications on Discharge Serial Nos. 001 and 002 on March 10, 2005. The above comment reflects additional clarifications. USEPA and the Regional Board agree with the City have made appropriate changes.</p> <p><b>Actions:</b> Change has been made.</p>
48	Order, Page 25, Para. 2	Effluent Limitations and Performance Goals	<p>This paragraph uses both the term "effluent discharge limitations" and "discharge effluent limitations." Because "effluent limitation" is a term of art and defined term in the CWA at 33 U.S.C. §1362(11), the proper term to use is "effluent limitations" and all references should be made consistent with this.</p>



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			<p>In addition, the first paragraph contained in this section should have the following sentence added: <u>“The listed effluent performance goals are not enforceable effluent limitations or standards.”</u> This language is necessary to ensure protection from enforcement of these performance goals under Water Code §13385 or via citizen suits.</p> <p>This section requires that the permit holder submit a written report to the Regional Board and U.S. EPA if a performance goal exceedance persists in two successive monitoring periods. The permit holder is required to report on the “nature of the exceedance, the results of the investigation as to the cause of the exceedance, and the corrective actions taken or proposed corrective measures, with timetable for implementation, if necessary.” The need and burden, including cost, of these investigations and reports must be analyzed under Water Code §13267(b)(1) and §13225(c).</p> <p>The City will be required to expend scarce resources on investigations, studies, and reports because these goals are statistically designed to ensure exceedances, especially when the control of these constituents are beyond the capability of the full secondary treatment process.</p> <p>The Bureau proposes that if PGs are not removed as requested earlier, then, at the very least, reporting requirement be changed from PG exceedances in <u>three</u> successive monitoring periods.</p> <p>This section should also reference that effluent in excess of the prescribed limits is prohibited <u>except in accordance with</u> upset and bypass provisions incorporated by reference through the Standard Provisions. 40 C.F.R. §122.41(m) and (n) (Conditions applicable to all permits).</p>
<b>Response:</b>	USEPA and the Regional Board agree with the Bureau and both the term “effluent discharge limitations” and “discharge effluent limitations” have been replaced with “effluent limitations.”		
	We also agree to add the sentence <u>“The listed effluent performance goals are not enforceable effluent limitations or standards.” as proposed.</u>		
	The language in the final permit will be changed to “three consecutive” exceedances, as proposed.		
<b>Actions:</b>	Changes have been made.		
49	Order, Page 25, section b.	No Mention of West Basin using Outfall 002 for Disposal of Brine	This paragraph should reference West Basin’s use of outfall 002.

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<b>Response:</b>	This permit is solely for the discharge from the HTP. Finding 16 clearly describes that the waste brine from West Basin facility is discharged to the ocean through Outfall 002.		
<b>Actions:</b>	None necessary.		
50	Order, Page 25, section 2. a. (1)., and Page 36, footnote [2]	O&G and Settleable Solids Daily Maximum Limitations	Footnote (p-36) states that, "The daily maximum effluent concentration limit shall apply to flow-weighted 24-hour composite samples." Type of sample for O&G and Settleable Solids is grab (p-T-19 & T-20). Therefore, daily maximum effluent limitations do not and should not apply to both O&G and settleable solids. See accord 40 C.F.R. §122.45(d)(2).
<b>Response:</b>	Grab samples are specified for some parameters such as O&G and settleable solids, because the characteristics of these parameters may change during the time during compositing. Therefore, we revise the footnote [2] on Page 36 as follows: (Additions are underlined.)  "The daily maximum effluent concentration limit shall apply to flow-weighted, 24-hour composite samples. <u>It may apply to grab samples if the collection of composite samples for those constituents is not appropriate because of the instability of the constituents.</u> "		
<b>Actions:</b>	Change has been made.		
51	Order, Page 26-36, tables	Definition of "Metals" and "Total Recoverable Metals"	The Bureau requests clarification on the definition of all "metals," and recommends that the Regional Board re-word "metals" to "total recoverable metals" throughout the entire Tentative Permit.  Based on 40 CFR Part 136, the Bureau uses EPA method 200.7 and 200.8 (ICP and ICPMS method) to monitor metals. In these methods, only "total recoverable metals" are defined; there are no sample preparation procedures for "total metals".
<b>Response:</b>	USEPA and the Regional Board have added the following to the influent and effluent Tables as Footnote [29].  "Concentration expressed as total recoverable."		
<b>Actions:</b>	Change has been made.		
52	Order, Section I, A. 2.b, (1), Page 26 & 37 (Footnote 16 )	Total Chlorine Residual Intermittent Discharge Limits	Delete the Chlorine residual limit since there is no Reasonable Potential and the plant does chlorinate its 002 discharge. The Regional Board's RPA spreadsheet shows 100 % non-detects for chlorine residual monitoring of effluent. The inclusion of this limit is unnecessary, not consistent with a scientifically valid RPA and serves no useful purpose.

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<b>Response:</b>	The effluent limit for chlorine residual for Outfall 002 is removed, but it is retained for Outfall 001. Please refer to response to Comment no. 11 in the response letter.		
<b>Actions:</b>	Change has been made.		
53	Order, Pages 27, 32, and 38, fn. 30	Inappropriate Application of Drinking Water Standards	<p>The Regional Board incorrectly included inapplicable drinking water-based limits for radioactivity on this ocean discharge. The Bureau requests that all limits based on drinking water Maximum Contaminant Levels (MCLs) be deleted from the Tentative Permit. (The Fact Sheet states that the Title 22 MCL-based effluent limits were included in the permits based on “best professional judgements [sic].” See Fact Sheet at F-29.)</p> <p>Drinking water standards were intended only to apply to drinking water treatment facilities (at the tap or point-of-use) and should not apply to “end-of-pipe” wastewater treatment facilities (per 22 C.C.R. §64431 and 64444). Since the HTP effluent is not used for direct potable purposes, the Title 22-based effluent limits, as daily maximum limits in the tentative permit are unnecessarily restrictive and inappropriate for treated effluent discharged to the ocean. In most cases, drinking water standards are also intended to be applied as 12-month rolling averages (per Title 22, Division 4, Chapter 15, Article 4, §64432). This is consistent with requirement A.7 contained in previous Regional Board Orders, such as Order No. 91-100, which established compliance with drinking water standards as a “running annual average.” There is no reason provided why these limits, if authorized at all, must be set as daily maximum limits.</p> <p>The 1994 Basin Plan inappropriately incorporates by reference concentrations for radionuclides for “waters designated for use as domestic or municipal supply (MUN).” See Basin Plan at 3-15. Therefore, these Title 22 based effluent limits to protect this use are not applicable to the ocean, which has no existing MUN use. See Order at Page 11, Finding 28, and Fact Sheet at Page F-16. An MUN use is not an existing use and is not even contemplated as a potential use. Therefore, these radioactivity limits are not necessary to protect beneficial uses and should be deleted from the permit for a lack of reasonable potential as allowed by 33 U.S.C. §1342(o)(1) and (2).</p> <p>The California Ocean Plan establishes water quality objectives for radioactivity purportedly based on <u>Title 17</u>, Division 1, Chapter 5, Subchapter 4, Group 3, Article 3, Section 30253 of the California Code of Regulations. This regulation in turn references portions of Title 10 of the Code of Federal Regulations, Part 20, sections 20.1001 through 20.2402 and Appendices A through G. See 17 C.C.R. §30253(a) Both of these regulatory references address standards for protection against radiation from activities conducted under licenses issued by the Nuclear Regulatory Commission. Neither set of regulations contains actual water quality</p>

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			<p>objectives, only effluent concentrations for direct discharges from nuclear facilities (not from POTWs), and monthly average concentrations for indirect discharges to sewers. Consequently, neither these criteria nor the use of California Title 22 objectives for radiation are directly applicable to HTP's ocean discharge. Further, even if these criteria were somehow applicable, the Tentative Permit and Fact Sheet do not contain an RPA justifying the imposition of effluent limits for radioactivity.</p> <p>In order to protect beneficial uses from radioactivity, the permit includes a narrative receiving water limitation stating that radioactivity from waste cannot degrade marine life, as well as monthly monitoring requirements. See Order at Page 42, Provision I.C.5, and Monitoring and Reporting Program at Page T-20.</p>
<b>Response:</b>	Please refer to response to Comment 18 of this attachment.		
<b>Actions:</b>	None necessary		
54	Order, Page 28 and 29, table	Tributyltin and 3,3'-Dichlorobenzidine Performance Goals	The Bureau requests that the Regional Board delete PGs for tributyltin and 3,3'-Dichlorobenzidine because effluent limitations are already imposed on these parameters.
<b>Response:</b>	For these constituents, PGs are less than their respective effluent limits. Therefore, PGs are imposed on these constituents.		
<b>Actions:</b>	None necessary.		
55	Order, Page 29, table Footnote 23	Total Chlordane (Sum of 7 Congeners)	There are no available standards for alpha-and gamma-Chlordenes; therefore, there are no MDLs for these two compounds. The Bureau requests that the Regional Board use the sum of the remaining congeners for total Chlordane.
<b>Response:</b>	USEPA and the Regional Board staff are aware of the lack of standards for alpha- and gamma- Chlordene. Since quantitation and identification in the analysis are impractical without appropriate standards, the Bureau may temporarily suspend the monitoring requirements for alpha and gamma chlordene and use the sum of the remaining congeners for total Chlordane. However, the Bureau is required to continue to research standards and resume detection and quantification practices as soon as standards for these two compounds become available.		
<b>Actions:</b>	None necessary.		
56	Order, Page 30 and 35.	Use of Azobenzene versus 1,2-Diphenylhydrazine.	1,2-Diphenylhydrazine is an unstable compound. The Bureau requests that the Regional Board revise the Tentative Permit to use Azobenzene in its place.

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<b>Response:</b>	This compound is listed in Table B of the 2001 California Ocean Plan. It can not be replaced unless there is a revision on this issue.		
<b>Actions:</b>	None necessary.		
57	Order, Page 36, table	Spelling Corrections	<p>"Tetrachloroethene" should be "tetrachloroethylene."</p> <p>"Trichloroethene" should be "trichloroethylene." Although synonyms, the later spelling "-ethylene" is more commonly used.</p>
<b>Response:</b>	USEPA and the Regional Board staff concur with the changes.		
<b>Actions:</b>	Changes have been made.		
58	Order, Page 36, fn. 1	Footnote for Mass Emission Rates	<p>As discussed earlier, the Bureau requests that the mass emission rates be deleted based on 40 CFR § 122.45(f)(1)(ii). However, if mass emission rates are retained in this Tentative Permit, then this footnote's statement that the mass emission rates were calculated by multiplying the concentration limits in the table by the average design flow rate ( 420 mgd) discharged at Discharge Serial No. 002 needs to be revised based on design capacity (450 MGD). See 40 C.F.R. §122.45(b)(1). That being said, the Bureau appreciates that the mass limits do not apply when storm events cause the flow to exceed design capacity.</p> <p>However, if mass emission rates continue to be applied to Discharge No. 002, they should continue not to be applied to Discharge Serial No. 001 since this outfall is used intermittently for emergencies only.</p>
<b>Response:</b>	Please refer to response to Comment no. 15 in the response letter. Recognizing that there are no mass emission rates for Outfall 001 in the Permit, the first sentence of Footnote [1] regarding the calculation of mass emission rates for Outfall 001 has been deleted.		
<b>Actions:</b>	Change has been made.		
59	Order, Page 38, footnote [29]	Footnote with No Reference	This Footnote has no association and should be deleted.
<b>Response:</b>	Footnote [29] has been deleted.		
<b>Actions:</b>	Change has been made.		
60	Order, Page 39, section 7, and	Exceedance of SMB Bacterial TMDL WLA at	This Tentative Permit states that HTP's discharge does not reach the shoreline. These requirements are therefore unnecessary and should not be applied.

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	Order, Page 41, Section 1.c..	Shoreline Compliance Points	
<b>Response:</b>	Section I.A.7 of the Tentative Permit on page 39 is necessary to implement the SMB Beaches bacteria TMDLs. Although the plume studies have indicated that the HTP's discharge does not reach the shoreline, the City may be required to conduct a sanitary survey to verify compliance with the SMB Beaches bacteria TMDL requirements when monitoring results of shoreline stations (from MS4 storm water permit) consistently show exceedances of SMB Beaches bacteria WLA for the HTP. There may be incidents where exceedances could be caused by failure of the sewer infrastructure or sanitary sewer overflows, and sampling would be required.		
<b>Actions:</b>	None necessary.		
61	Order, Page 39, Section I A.(6).	Inapplicability of Narrative Effluent Limits	The Bureau requests the deletion of these narrative effluent limits, as they are redundant with receiving water limits prescribed later in the permit. The requirements in Provision I.A.6.a. mirror the requirements of Receiving Water Limitation C.2.a., Provision I.A.6.b. mirrors the requirements of Receiving Water Limitation C.2.d., Provision I.A.6.c. mirrors the requirements of Receiving Water Limitation C.3.e. and C.4.c., Provision I.A.6.d. mirrors the requirements of Receiving Water Limitation C.2.c., and Provision I.A.6.e. mirrors the requirements of Receiving Water Limitation C.2.d. This duplication of narrative receiving water requirements has not been demonstrated to be necessary, nor has the Regional Board performed a reasonable potential analysis to determine that HTP's effluent has a reasonable potential to cause or contribute to an exceedance of these narrative objectives derived from the Ocean Plan. See Ocean Plan at Page 5.
<b>Response:</b>	The narrative limitations in Section I.A.6. restrict some materials and substances from being present in the effluent. The limitations in the Receiving Water section emphasizes that no adverse impact to receiving waters should result from the discharge of waste. Both narrative limitations pose a similar objective of protecting receiving water, but are not totally identical in nature. They are consistent with the Ocean Plan.		
<b>Actions:</b>	None necessary.		
62	Order, Page 40, section C. 1.	Lack of Footnote in the Section Regarding Rain Events and Affect on Calculations	Wet-weather exclusion Footnote should be added to the Tentative Permit as storm water runoff will impact inshore and offshore stations. The day of rain (0.1 inch and greater) plus three following days worth of bacteriology data should be excluded from Single Sample and Geomean limits.

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<b>Comment #</b>	<b>Document Reference</b> (Doc. #, Page #, Section #, Paragraph #)	<b>Issue</b>	<b>Comments</b>
<b>Response:</b>	Basin Plan does not have any provision that exclude data collected during storm events from consideration. USEPA and the Regional Board disagree with the inclusion of any exclusion language in the Tentative Permit. The City always has the option to show that the exceedances are caused by storm water based on supporting monitoring data in the surrounding areas. Therefore, it remains unchanged.		
<b>Actions:</b>	None necessary.		
63	Order, Page 41, section 3. c.	Dissolved Sulfide Concentrations	The permit needs to define when waters in and near sediments are deemed "significantly increased above that present under natural conditions."
<b>Response:</b>	This is standard language contained in the 2001 California Ocean Plan. To determine the significance of an increase in dissolved sulfide concentrations, a statistical analysis should be performed using existing monitoring data.		
<b>Actions:</b>	None necessary.		
64	Order, Page 42, Provision II, Biosolids	Biosolids Requirements	<p>These provisions go far beyond the requirements of the last HTP permit. References to the enforceability of other orders and the mandate for compliance with these orders do not belong in this permit. For example, requiring compliance with the State-wide WDRs transforms these non-federal requirements into new federally enforceable requirements, thereby arguably allowing a third party to bring a citizen suit for non-compliance. This should not be the result. Moving these provisions instead into the findings or the fact sheet will eliminate this hopefully unintended result.</p> <p>The Regional Board should also explain why the Bureau must furnish its biosolids reports to the Regional Board in accordance with Water Code §13267(b)(1) and §13225(c).</p>
<b>Response:</b>	<p>The City's permit was last issued in 1994 and sludge regulation has improved since that time. There is authority under 40 CFR 503 to include Biosolids Requirements in POTW permit. In response, USEPA and the Regional Board have changed Section II.B of the Tentative Permit to specify:</p> <p>"The Discharger shall ensure compliance with the requirements in SWRCB Order No. 2004-10-DWQ, General Waste Discharge Requirements for the Discharge of Biosolids to Land for Use as a Soil Amendment in Agriculture, Silvicultural, Horticultural, and Land Reclamation Activities" for those sites receiving the Discharger's biosolids which a Regional Water Quality Control Board has placed under this general order, and with the requirements in individual Waste Discharge Requirements issued by a Regional Board for sites receiving the Discharger's biosolids."</p>		
<b>Actions:</b>	Change has been made, as described.		
65	Order, Page 43, section D.	Word Duplication	The word "users" appears twice in a row. The Regional Board should delete second "users."

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<b>Response:</b>	Comment noted.		
<b>Actions:</b>	Change has been made.		
66	Order, Page 43, Provision III.B.	Pretreatment Local Limits	This paragraph states that the “lack of enforceable local limits shall not be a defense against liability for violations of effluent limitations and overflow prevention requirements contained in this Order and permit.” However, this language should be clarified that the lack of limits <i>will</i> be a defense if the City has adopted, but the Regional Board has not yet approved, or has unreasonably withheld approval of, the City’s local limits.
<b>Response:</b>	This is an incorrect assumption. The City must always have a set of approved local limits. Until new ones are approved, the existing ones will be in force.		
<b>Actions:</b>	None necessary.		
67	Order, Page 43, III.B.	Pretreatment Local Limits for the Hyperion NPDES only/ FOG Program	<p>The Bureau has several issues with this section as written. The first is that the Bureau is not able to develop protective pretreatment local limits for upstream plants (LAGWRP DCTWRP, and Burbank WRP) in the absence of newly adopted NPDES Permits for these plants, which are currently delayed by litigation over the 1998 versions of these permits. Local limits developed based on HTP NPDES Permit will only be protective of Hyperion. Secondly, the City of Burbank is responsible for developing local limits to protect the Burbank WRP.</p> <p>Additionally, the Bureau is not aware of a methodology to calculate or develop numerical local limits for Oil and Grease based on treatment plant effluent limits that will ensure a reduction or elimination of sanitary sewer overflows. The 2001 Draft Guidance on local limits states, “Local limits on FOG may not be appropriate for some POTWs because the sources of FOG are often non-SIUs and so are not necessarily included in the POTW’s pretreatment program. The use of controls other than numerical limitations may be a more appropriate way to address the problem of FOG.” The Bureau concurs with this assessment, and has a comprehensive program to reduce FOG-related SSOs through the permitting and regulating of Food Service Establishments including the installation of grease removal devices, sewer maintenance, and public outreach.</p> <p>For these reasons, the Bureau requests that the Regional Board revise Paragraph B as follows:</p> <p>“The Discharger shall evaluate whether its pretreatment local limits are adequate to meet the</p>



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<b>Comment #</b>	<b>Document Reference</b> (Doc. #, Page #, Section #, Paragraph #)	<b>Issue</b>	<b>Comments</b>
			requirements of this Order and permit. Hyperion Treatment Plant is part of the Hyperion Treatment System, including Tillman WRP, LAGWRP, and Burbank WRP. <del>In the reevaluation of local limits, the Discharger shall consider the effluent limitations contained in this Order and permit, and other relevant factors due to the interconnectedness of the system and protection of the upstream plants.</del> The Discharger shall submit by April 1, 2005 to the Regional Board and USEPA the results of the evaluation indicating whether changes to the Discharger's local limits are needed. Any revised local limits shall be submitted to the Regional Board and USEPA for approval under 40 CFR 403.18 by April 1, 2006. <del>In addition, the Discharger shall consider collection system overflow protection from such constituents as oil and grease, etc. Lack of adequate local limits shall not be a defense against liability for violations of effluent limitations and overflow prevention requirements contained in this Order and permit."</del>
<b>Response:</b>	Please refer to response to Comment no. 24 in the response letter.		
<b>Actions:</b>	None necessary.		
68	Order, Page 44, Provision III.F.	Pretreatment Reporting Requirements	The permit is requesting more monitoring and reporting than in the last HTP permit. For example, in this provision, in addition to annual pretreatment reports, the Regional Board is now requiring semiannual reports. As a generally applicable comment, for all monitoring and reporting requirements, the Regional Board must justify the need and burden (including cost) for the monitoring and reporting in accordance with Water Code §13267(b) and §13225(c).
<b>Response:</b>	Currently the City is required to submit quarterly compliance status reports to USEPA, the State Board, and the Regional Board. Therefore, by submitting an annual and semiannual report, the frequency is, in fact, decreased. The cost analysis provisions upon which Discharger relies have no application to waste discharge requirements that serve as an NPDES permit. The Permit was issued under the authority of chapter 5.5 (commencing with section 13370) of Water Code which governs waste discharge requirements that serve as federal permits. Water Code, Section 13383 provides the authority for the monitoring requirements in the Permit. Section 13383 authorizes the Regional Board to "establish monitoring, inspection, entry, reporting, and recordkeeping requirements, as authorized by sections 13160, 13376, or 13377 or by subdivisions (b) and (c) of this section, for any person who discharges, or proposes to discharge, to navigable waters. . ."		
<b>Actions:</b>	None necessary.		
69	Order, Page 44, Provision IV., Prohibitions	Justification for Prohibitions	There were no such prohibitions in the previous permit, and there are no justifications or evidence supporting the necessity of such provisions within the Tentative Permit or the Fact Sheet. Each of these prohibitions must be justified with evidence in the record or be deleted. The first prohibition, IV.A. is not required by the Clean Water Act or the Water Code. At the least, the words "at any point" should be removed as unnecessary and beyond legal requirements.

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			<p>Similarly, Prohibition IV.B. is inconsistent with 40 C.F.R. §122.41(m) and the Standard Provisions, which set forth when bypassing is allowed. Therefore, there is no justification for this provision and it should be deleted.</p> <p>Also, Prohibition IV. might be seen as inconsistent with the effluent limits for radioactivity (of which the Bureau has requested deletion) and the narrative receiving water limitation for radioactive substances. Therefore, either the effluent limits or this prohibition should be removed or these provisions should be clarified.</p>
<b>Response:</b>	The first prohibition, IV.A. is a standard language and is present in the existing Hyperion permit (Provision IV.2). Prohibition IV.B. is a general statement about the restriction of any bypass to the ocean. It is consistent with 40 CFR 122.41(m) and the Standard Provisions that prohibit bypass unless bypass can meet all the conditions required by those provisions. Prohibition IV.F. and the narrative receiving water limitation for radioactivity are existing languages in the 2001 California Ocean Plan. We believe that the radioactivity effluent limits based on MCLs are consistent with these prohibitions because it represents the best science available and is protective, and it is not expected that the HTP will accept any high-level radioactive waste from its industrial sources.		
<b>Actions:</b>	None necessary.		
70	Order, Page 45, Provision V.D.	Compliance with All Ocean Plan objectives	The language contained in provision V.D. states that HTP's discharge will comply with all Ocean Plan and Basin Plan objectives. As written, this implies that the HTP's effluent must meet the objectives as expressed in these two plans. The objectives contained in the Ocean Plan and the Basin Plan apply to the receiving water at the edge of the mixing zone, not to the HTP's effluent. The language should be amended to clarify that HTP's discharge shall not cause or contribute to a violation of water quality objectives contained in these two plans. If the discharge is shown to cause or contribute to such a violation, then the permit contains a re-opener to allow for the inclusion of new effluent limits to address this situation.
<b>Response:</b>	<p>USEPA and the Regional Board staff have revised the provision V.D. as follows:            "The wastes discharged shall comply with all <u>applicable</u> Ocean Plan and applicable Basin Plan <del>objectives</del> <u>requirements</u>."</p> <p>In addition, the following language has been added to Section I.C. (Receiving Water Limitations).</p> <p>6. The waste discharged shall not cause a violation of any applicable water quality standard for receiving waters.  <u>If more stringent applicable water quality standards are promulgated or approved pursuant to Section 303 of the Clean Water Act, or amendments, thereto, USEPA and the Regional Board will revise and modify this Order and permit in accordance with such standards.</u></p>		
<b>Actions:</b>	Changes have been made.		
71	Order, Page 45, Provision V.E.	Applicable Limitations, Standards and Federal	This requirement is currently as follows: "The discharger shall comply with all applicable effluent limitations, national standards of performance, toxic and pretreatment effluent

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Comment #	Document Reference (Doc. #, Page #, Section #, Paragraph #)	Issue	Comments
		Regulations	standards and all federal regulations established pursuant to Sections 301, 302, 303(d), 304, 306, 307, 316, and 405 of the Clean Water Act and amendments thereto.” If any of these sections are applicable, then they should be spelled out in the permit in detail. This provision is too vague to be a valid provision for which the City could be held strictly liable.
<b>Response:</b>	The provision reiterates applicable federal law and serves as a catchall. Many of the referenced laws are made more specific through the specific permit requirements. However, in the event that federal requirements are updated or to the extent the applicable laws do not require a permit requirement or revision in order to be made enforceable against the discharger, it is appropriate to leave the catch all requirement to comply with <i>applicable</i> federal law.		
<b>Actions:</b>	None necessary.		
72	Order, Page 45, Provision V.F.	Biosolids Management	This provision should be narrowed to “all <u>applicable</u> requirements of 40 C.F.R. ....”
<b>Response:</b>	EPA and the Regional Board have made the change as requested.		
<b>Actions:</b>	The permit has been changed.		
73	Order, Page 45, Provision V.G.	Compliance with Conditions of the Permit	<p>This provision prejudices compliance determinations and holds that “any noncompliance constitutes a violation of the CWA and CWC and is grounds for an enforcement action.” As stated, this provision can be interpreted to require compliance with the mass emission benchmarks and performance goals, both of which are stated elsewhere in the draft permit to be unenforceable. Therefore, the language must be amended to clarify what provisions of the permit are not intended to be enforceable on the City.</p> <p>Furthermore, there are defenses available to the City that might make an instance of noncompliance not a “violation.” For this reason, the Bureau requests that this sentence be amended as follows: “any noncompliance <u>may</u> constitute a violation of the CWA and CWC and <del>is</del> <u>may be</u> grounds for an enforcement action.”</p>
<b>Response:</b>	This is the standard language to indicate enforceability in our NPDES permit. Both performance goals and mass emission benchmarks are not standards or limitations, so that any exceedance will not be considered a violation. However, the failure to conduct required studies due to exceedances of performance goals will be considered a noncompliance that will constitute a violation.		
<b>Actions:</b>	None necessary		
74	Order, Page 45, Provision V.H.	Mass Emission Benchmarks	This provision, if maintained, should be placed with the provisions related to the mass emission caps at Pages 39-40.

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<b>Response:</b>	USEPA and the Regional Board disagree. The supporting rational and implementation of these requirements is provided in the permit fact sheet and permit Finding 62.		
<b>Actions:</b>	None necessary.		
75	Order, Page 46, section 2.b. & c.	Compliance Determination	The Bureau requests clarification on item 2b and 2c. Compliance for item 2b & 2c seem to be the same, but 2b requires an additional 4 samples during the month and 2c only increases sampling to weekly.
<b>Response:</b>	Both items 2b and 2c require increased sampling in the event of noncompliance with a monthly average effluent limitation. Item 2c further states that the sampling frequency may return to the scheduled frequency if compliance with monthly average has been demonstrated. For clarification, 2.b. has been revised as follows:		
	<p>b. If the analytical result of a <u>any</u> single sample, monitored monthly, quarterly, semiannually, or annually, exceeds the monthly average limit for any constituent, the Discharger shall collect <u>up to four additional weekly samples at approximately equal intervals during the month</u>. All five analytical results shall be reported in the monitoring report for that month, or <u>the subsequent month 45 days after the sample was obtained, whichever is later</u>. The concentration of pollutant (a numerical average or a median) estimated from the following Section V.I.3. will be used for compliance <u>determination</u>.</p> <p><del>When all sample results are greater than or equal to the reported Minimum Level (see Reporting Requirements IV. A. of M&amp;RP), the numerical average of the analytical results of these four samples will be used for compliance determination.</del></p> <p><del>When one or more sample results are reported as "Not Detected (ND)" or "Detected, but Not Quantified (DNQ)" (see Reporting Requirements IV. D. of M&amp;RP), the median value of these four samples will be used for compliance determination. If one or both of the middle values is ND or DNQ, the median will be the lower of the two middle values.</del></p>		
<b>Actions:</b>	Changes have been made.		
76	Order, Page 46, section I.2.b.	Compliance Determination	The Bureau requests that the Regional Board correct the wording from "four" to "five" in this section. Compliance determination language is currently incorrectly worded by stating that five samples should be taken for the month, but then indicating that "four" data points to be used in compliance determination.
<b>Response:</b>	Please see response above.		
<b>Actions:</b>	Change has been made.		

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Comment #	Document Reference (Doc. #, Page #, Section #, Paragraph #)	Issue	Comments
77	Order, Page 46, Section I.2.b.	Clarification of Compliance Determination when Samples Contain ND and/or DNQ Data	<p>The following statement in this section needs to be further clarified in the permit: "When one or more sample results are reported as "Not-Detected (ND)" or "Detected, but Not Quantified (DNQ)" (see Reporting Requirements IV. D. of <i>M&amp;RP</i>), the median value of these four samples will be used for compliance determination. If one or both of the middle values is ND or DNQ, the median will be the lower of the two middle values."</p> <p>The Regional Board should clarify whether this applies to the situation where one of the two middle values is a numeric value and the other is either ND or DNQ. For instance, if the two middle values are 0.43 and ND, is ND selected as the median?</p> <p>Also, this section should clarify whether it is referring to the situation where multiple samples are taken in a month because the first sample was out of compliance with the monthly average limitation. Do these rules also apply when there are only two samples (a monthly sample and a split sample) in one month? And does this apply to averaging of monthly results on the annual report? This section needs clarification and also needs to be generalized to apply to any type of averaging.</p>
<b>Response:</b>	<p>We believe that the protocol of determining pollutant concentration when multiple samples are taken should apply to all situations. Therefore, some portions under Section V.I.2.b are removed (see response to comment 75 above) and a new Section 3. under Compliance Determination (V.I.) is added as follows:</p> <p><u>3. When all sample results are greater than or equal to the reported Minimum Level (see Reporting Requirements IV. A. of M&amp;RP), the numerical average of the analytical results of these samples will be used for compliance determination.</u></p> <p><u>When one or more sample results are reported as "Not-Detected (ND)" or "Detected, but Not Quantified (DNQ)" (see Reporting Requirements IV. D. of <i>M&amp;RP</i>), the median value of these samples will be used for compliance determination. If, in a even number of samples, one or both of the middle values is ND or DNQ, the median will be the lower of the two middle values.</u></p>		
<b>Actions:</b>	Changes have been made.		
78	Order, Page 46, Provision V.I.2.d.	Compliance Determination	This provision also prejudices the finding of a "violation" and holds that "the Discharger is in violation of the monthly average limit." Instead, as was done in section V.I.1. and V.I.3, the wording should be amended to state that the "the Discharger is <u>not in compliance with</u> the monthly average limit."

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<b>Comment #</b>	<b>Document Reference</b> (Doc. #, Page #, Section #, Paragraph #)	<b>Issue</b>	<b>Comments</b>
<b>Response:</b>	This is our standard language in all NPDES permits. Since noncompliance with the monthly average limit constitutes a violation, this statement is appropriate and will remain in the permit.		
<b>Actions:</b>	None necessary.		
79	Order, Page 47, Section 4.	Miscalculation of median	The median of an even number of measurements should be calculated as follows: $\text{median} = [X_n + X_{n-1}]/2$
<b>Response:</b>	USEPA and the Regional Board staff agree and the formula for the calculation median has been changed as proposed.		
<b>Actions:</b>	Change has been made.		
80	Order, Page 47, Section J.	Compliance Determination	The Tentative Permit requires the use of $\frac{1}{2}$ of the MDL if result is ND and the estimated concentration if the result is DNQ for calculating mass emissions rates from monthly average concentrations. It should be noted that $\frac{1}{2}$ MDL and DNQ are merely estimated results, not actual results and, therefore, should not be used to determine any actual effluent value.
<b>Response:</b>	We acknowledge that no actual effluent values may be determined by ND or DNQ. Currently, there is no specific instructions regarding how to substitute ND data with a numeric data. The substitution of ND with one-half of MDL has been consistently used in the development of the permit, such as with the RPA. Since the actual values are not obtainable, we believe our approach will generate reasonable estimate values for ND and DNQ.		
<b>Actions:</b>	None necessary.		
81	Order, Page 46-47, section I.3. & J.	Compliance Determination	The Regional Board has proposed to use ND and DNQ data inconsistently in this section. ND and DNQ should equal zero in both cases instead of zero in section I.3. and $\frac{1}{2}$ the MDL and the estimated concentration in Section J.
<b>Response:</b>	The Ocean Plan Sections III.C.6 and 7 specify how "concentration" values are reported and how compliance will be determined. These requirements were incorporated into the Tentative Permit. The Ocean Plan clearly specifies that "individual pollutants of the group will be considered to a concentration of zero if the constituent is reported as ND or DNQ." However, there is no guidance on how to assign a numerical value for constituent reported as ND or DNQ for the calculation of Mass Emission Rates. Our approach herein is consistent with other NPDES permits issued by this Regional Board. Please also see response to above comment.		
<b>Actions:</b>	None necessary.		
82	Order, Page 47, Provision V.K.2.	Pollutant Minimization Program	The requirement to develop <u>and conduct</u> a Pollution Minimization Plan (PMP) is contrary to the terms of Water Code §13263.3(k). See <i>In the Matter of Tosco Refining</i> , State Board Order No. 2001-06 at Page 40 (March 17, 2001). For this reason, the Bureau requests that the

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<b>Comment #</b>	<b>Document Reference</b> (Doc. #, Page #, Section #, Paragraph #)	<b>Issue</b>	<b>Comments</b>
			words "conduct" or "implement" be removed from this provision related to PMPs.
<b>Response:</b>	This is the language from the 2001 California Ocean Plan. The word "conduct" is used in the language. No change is warranted.		
<b>Actions:</b>	None necessary.		
83	Order, Page 48, Section 4.a.	Pollutant Minimization Program	This section requires the Bureau to consider health advisories for fish consumption in determining whether the pollutant is present in the effluent at levels above the calculated effluent limitation. Currently, there are health advisories for fish consumption due to historic DDT and PCB contamination. There are significant, well-documented, historical deposits of these contaminants directly south of Santa Monica Bay. In the face of these large deposits of DDT and PCBs in such close proximity to the HTP outfall, it is unreasonable to expect the Bureau to prepare PMPs for these constituents. Therefore, the Bureau requests that these constituents be exempted from the PMP requirements.
<b>Response:</b>	Health advisories for fish consumption are one of the areas to be considered in determining whether the pollutant is present. The unfavorable data in this area may be negated if adequate evidence and studies indicate that the contamination is caused by other sources.		
<b>Actions:</b>	None necessary.		
84	Order, Page 51, Provision VII.A.	Expiration Date	This expiration date is inconsistent with the Fact Sheet and is not five years from the date of adoption. On Page 51, the permit expiration date is listed as January XX, 2009, and on Page F-4, the permit expiration date is listed as January XX, 2010. The Bureau requests that the Regional Board correct these dates in the final version.
<b>Response:</b>	USEPA and Regional Board staff have revised the expiration date in the permit and Fact Sheet to "_____, 2010". The month and day will be 5 years and 33 days following the date the permit is signed by EPA, i.e., 5 years from the permit effective date. The permit is effective 33 days following the date it is mailed to the discharger, i.e., 33 days following signature and permit issuance by EPA. The exact date will be filled in when the final permit is signed by USEPA.		
<b>Actions:</b>	Change has been made.		
85	Order, Page 50, Provision VI.D.	Modification of Permit for New MLs	For clarity, this section should reference " <u>approved</u> MLs" to clarify that the MLs must go through an adoption process at the state or region level before they can be used in the permits for compliance purposes.

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<b>Response:</b>	Only the approved MLs will be incorporated into the permit. The use of “approved” MLs in the reopener is not necessary.		
<b>Actions:</b>	None necessary.		
86	Attachment B, Page B-1, Heading	Change Heading of Attachment	Strike “sludge” from the heading of Attachment B as follows: “BIOSOLIDS/ <del>SLUDGE</del> MANAGEMENT”  Hyperion manages the production of biosolids, not sludge.
<b>Response:</b>	USEPA and the Regional Board disagree. EPA’s rules use the term “sludge” and do not have a formal definition of “biosolids”. The term “biosolids” is used in guidance documents and is informally defined as that sewage sludge which meets minimum requirements for land application. It is possible that a facility will produce a batch of sludge that fails pathogen or pollutant requirements for land application and, as such, would not be called “biosolids” (e.g., Terminal Island failed the 100 ppm selenium limit several years ago).		
<b>Actions:</b>	None necessary.		
87	Attachment B, Page B-1, Paragraph A	Change Date of General Order	Revise paragraph A as follows to reference the latest order:  “California Biosolids Order ( <i>State Water Resources Control Board Water Quality Order No. <del>2000</del> 2004 –10 - DWQ, General Waste Discharge Requirements for the Discharge of Biosolids to Land for Use as a Soil Amendment in Agriculture, Silvicultural, Horticultural, and Land Reclamation Activities</i> )
<b>Response:</b>	USEPA and Regional Board staff agree.		
<b>Actions:</b>	Change has been made.		
88	Attachment B, Page B-1, Paragraph J	General Requirement for Biosolids	Revise the following paragraph as follows:  “The application of <del>bulk thermophilically digested “exceptional quality”</del> biosolids produced at the HTP shall comply with the general requirements in 40 CFR §503.12 and management practices in 40 CFR §503.14.”  The general requirements describe the product and there is no need to add further description in the text.



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<b>Response:</b>			USEPA and the Regional Board agree to change this provision understanding that by deleting the phrase “bulk thermophillically digested ‘exceptional quality biosolids’”, all biosolids produced by HTP will be subject to the general requirements in 503.12 and management practices in 40 CFR 503.14. USEPA does not see the need to re-impose these general and management practices for certain types of “exceptional biosolids”, i.e., compost or pelletized biosolids. However, USEPA does see a need for compliance with several of the general and management practices in the case of thermophillically digested biosolids, given that it has high nitrogen content that must be tracked to ensure an agronomic rate, must be handled carefully because of the potential for pathogen regrowth, etc. Because the permittee does not mind having the general and management practices apply to all biosolids produced by HTP, the permittee’s requested deletion has been made.
<b>Actions:</b>			Change has been made.
89	Attachment B, Page B-3, Paragraph A1.	Revision of Notification of Non-Compliance Requirements	<p>Revise the following paragraph as follows to remove unnecessary language:</p> <p><u>“Notification of non-compliance: The City shall notify EPA Region 9 and the applicable Regional Board or State agency of any non-compliance within 24 hours by phone or e-mail if the non-compliance may seriously endanger public health or the environment. A written report shall also be submitted within 5 working days of knowing the non-compliance. For other instances of noncompliance, the City shall notify EPA Region 9 and the Regional Board of the non-compliance in writing within 5 working days of becoming aware of the non-compliance. The City shall require their biosolids management contractors to notify EPA Region 9 and the Regional Board of any non-compliance within the same time frames.” For other instances of non-compliance, the City shall require their biosolids management contractors to notify EPA Region 9 and the Regional Board of the non-compliance in writing within 5 working days of becoming aware of the non-compliance.</u>”</p>
<b>Response:</b>			USEPA and the Regional Board disagree with this request. The permittee, not the permittee’s contractor(s), is responsible for reporting this information directly to regulatory authorities.
<b>Actions:</b>			No change necessary.
90	Attachment B, Page B-3, Paragraph A2.	Revision of Notification of Non-Compliance Requirements	<p>Revise the following paragraph as follows:</p> <p><u>“If biosolids are shipped to another State or to Indian Lands, the City must send 30 days prior notice of the shipment to the EPA and permitting authorities in the receiving State or Indian Land. In case of emergency situations where there is an urgent need to ship biosolids to another State or to Indian Lands, the City shall notify EPA and permitting authorities in the receiving State or Indian Land within 24 hours by phone or e-mail.”</u></p> <p>This additional language allows for notification in emergency situations where Biosolids must be shipped to another State.</p>

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<b>Response:</b>	<p>Last August, the City shipped some biosolids for which it did not yet have a demonstration of Class B pathogen reduction to a site in Arizona which ADEQ only allows to receive Class B or Class A biosolids. There were several facilities in Arizona that can accept biosolids for which Class B pathogen reduction has not been demonstrated, and the City could have sent these biosolids to such a facility (or to a composter in California that can take biosolids that have not met Class B pathogen reduction).</p> <p>However, in response to the City's request, USEPA and the Regional Board have added the following emergency reporting provision:</p> <p><u>"In case of emergency situations, the City shall notify EPA and permitting authorities in the receiving State or Indian Lands, by phone or e-mail, 48 hours prior to shipment and shall obtain approval from the State or Indian Land authority prior to shipment."</u></p>		
<b>Actions:</b>	Change has been made.		
91	Attachment B, Page B-3, Paragraph B.	Proposed Application Rates	<p>Revise Paragraph B as follows to clarify requirements:</p> <p><u>"Proposed application rates: By December 1 of each year, the City shall require their biosolids management contractors to submit to EPA a plan for the following calendar year of the volumes it projects to apply, dispose, or transfer to another treatment processing facility works for EPA. The plan shall contain a list of fields it proposes to use for land application with the following:</u></p> <ul style="list-style-type: none"> <li>- Name of field; location, ownership, size in acres</li> <li>- Projected dates of applications, seedings, harvesting</li> <li>- Projected tonnage to be applied to field</li> <li>- Projected Plant Available Nitrogen (PAN) before <del>and after</del> application (plan shall include methodology used to calculate PAN and agronomic rate, and targeted PAN for crop)"</li> </ul>
<b>Response:</b>	USEPA and the Regional Board have made the requested change.		
<b>Actions:</b>	Change has been made.		
92	Attachment B, Page B-3, Paragraph C.	Notification Prior to Changing Fields	<p>Revise as Paragraph C as follows for clarification:</p> <p><u>"The City shall require their biosolids management contractors to notify EPA Region 9 and the applicable Regional Board by phone or e-mail, <del>or have its contractors notify EPA and the applicable Regional Board,</del> at least 24 hours prior to changing application fields, of the field to which it will be moving to."</u></p>

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<b>Response:</b>	USEPA and the Regional Board have made the requested change.		
<b>Actions:</b>	Change has been made.		
93	Attachment B, Page B-4, Section V, Paragraph A.	Reporting Requirements	<p>Revise Paragraph A as follows for clarification:</p> <p>"The City shall <u>require their biosolids management contractors to</u> submit an annual biosolids report to the EPA Region 9 Biosolids Coordinator, Los Angeles Regional Water Quality Control Board, Central Valley Regional Water Quality Control Board (Fresno Office), and all other Regional Boards/State Agencies where biosolids are applied by February 19 of each year for the period covering the previous calendar year. The report shall include:"</p>
<b>Response:</b>	USEPA and the Regional Board believe that the City, itself, must submit the volumes of biosolids generated, results of monitoring, and documentation of operational parameters used to demonstrate pathogen reduction. The contractor should submit the information on the fields (loading to fields, crop grown, etc.). In response, the following phrase has been added between items 3 and 4 of Paragraph A: "The City shall <u>require its contractor(s) to</u> submit".		
<b>Actions:</b>	Change has been made.		
94	Attachment B, Page B-4, Section V, Para. A (1).	Reporting Requirements	<p>Revise Paragraph A(1) as follows to remove metric units since measurements are in tons:</p> <p>"The amount of biosolids generated that year, in dry <del>metric</del> tons, and the amount used or disposed by each use/disposal practices. For contracted use or disposal, the volume taken by each contractor shall be reported."</p>
<b>Response:</b>	The limits in 40 CFR 503 are all given in dry metric tons, EPA's database numbers are all in dry metric tons, and the vast majority of sludge producing facilities report in dry metric tons (and also wet tons and dry tons). To convert dry tons to dry metric tons, multiply dry tons by 0.907.		
<b>Actions:</b>	No change necessary.		
95	Attachment P, Page P-3, Pretreatment Reporting Requirements, Section A.7.	Pretreatment Reporting Requirement for Public Participation	<p>Revise Section A.7, "A summary of public participation" as follows:</p> <p>"The Discharger is required to provide a summary of public participation of pretreatment program in the Annual Report. The summary should describe activities to involve and inform the public of the program, <del>including a copy of the newspaper notice required under 40 CFR 403.8(f)(2)(vii). A copy of the newspaper notice required under 40 CFR §403.8(f)(2)(vii) should be included in the Semi-Annual Report.</del>"</p> <p>The cover letter details the reasoning for this change request. The following are supplemental</p>

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			<p>to the cover letter's comments on this issue.</p> <p>At the discretion of the Control Authority and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Control Authority may agree to alter the months during which the above reports are to be submitted. The federal regulation allows the Control Authority the flexibility to require reports more frequently than at the specified minimum requirement. The City's pretreatment program requirement for report submittal is more frequent than the federal requirement.</p> <p>The City's report submittal due date is taken from the EPA Total Toxic Organics Guidance Manual, Chapter 2.2.4 – Industrial User Semi-Annual Compliance Report. The guidance manual states that the self-monitoring reports should be required to be submitted within fifteen calendar days of the date on which the last sample analysis is received.</p> <p>On September 9, 1991, the EPA issued the Memorandum titled, Application and Use of the Regulatory Definition of Significant Noncompliance for Industrial Users. Page 2 of the Memorandum states that the regulation defining SNC clearly requires all measurements taken in the appropriate six-month period must be used to determine a facility's SNC status. To meet this requirement, the City must ensure that all industrial user measurements obtained are in compliance with appropriate sampling techniques and procedures established in 40 CFR Part 136. Verification of industrial user sampling results can range from 15 to 45 days (April 1st) after the SNC reporting period due date (February 15th).</p> <p>The City is therefore proposing that a copy of the newspaper notice required under 40CFR 403.8(f)(2)(vii) be included in the Semi-Annual Report required under this NPDES Permit.</p>
<b>Response:</b>	<p>While EPA and the Regional Board are in disagreement with the permittee regarding their described "discretion" to "alter" report submittal dates specified in the permit, because we believe that the permittees' requested <del>strikeout</del>/<u>underline</u> change does not involve this disagreement, the requested language change is included in the final permit. Because Attachment P contains our standard Pretreatment Requirements, we will not change it. However, we added the following language to Section III.F. of the Order:</p> <p><u>"A copy of the newspaper notice required under 40 CFR §403.8(f)(2)(vii) should be included in the Semi-Annual Report."</u></p>		
<b>Actions:</b>	Changes have been made.		
96	Attachment P, Page P-3, Pretreatment Reporting	Semi-Annual Reporting Requirements for Pretreatment Compliance Program	<p>Revise the first paragraph of Section B as follows:</p> <p>"The Discharger is required to submit Semi-Annual Pretreatment Program Compliance Report (Semi-Annual Report). The Semi-Annual Report covers the periods from January 1 to June</p>

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	Requirements, Section B		<p>30 and is due by <del>August 15<sup>th</sup></del> September 1 of each year."</p> <p>The Bureau further requests that the due date of the January 1 to June 30 semi-annual compliance report be changed from August 15 to September 1 of each year. This will provide the Bureau with 2 months after the end of the reporting period to prepare the report and make it consistent with the two months given for the preparation of the annual report.</p>
<b>Response:</b>	USEPA and Regional Board staff agree and have added the following language in Section III.F. of the Order:		
	<u>"The Semi-Annual Report covers the periods from January 1 to June 30 and is due by September 1 of each year."</u>		
<b>Actions:</b>	Changes have been made		
97	Attachment P, Page P-1, Pretreatment Reporting Requirements, Section A.1., paragraph 4, and Attachment B, Page B-2, Section III-F.	Annual Reporting Requirements	<p>Revise the 4<sup>th</sup> paragraph on Page P-1 as follows: "Sludge shall be sampled and analyzed for the same pollutants as the influent and effluent <del>sampling and analysis</del>".</p> <p>Page B-2 of Attachment B states that: "Biosolids shall be monitored semi-annually for all pollutants listed under Section 307(a) of the CWA". This clearly indicates that sludge is to be monitored semiannually. However, Attachment P states that "Sludge shall be sampled and analyzed for the same pollutants as the influent and effluent sampling and analysis." This disparity may mislead the POTW into monitoring the sludge as frequently as the effluent.</p>
<b>Response:</b>	It is correct that Attachment B requires biosolids be monitored semi-annually for all pollutants listed under section 307(a) of the CWA. However, in Attachment P, additional quarterly sampling and analysis of sludge (not biosolid) is required for pollutants detected in the influent or effluent during the annual full scan of the priority pollutants in August. (Please also see paragraph 2 of Section A.1.) For clarification, the sentence has been revised as follows:		
	<u>"Sludge shall be sampled and analyzed quarterly for the same pollutants as that were detected during the annual scan of the priority pollutants for the influent and effluent <del>sampling and analysis</del>."</u>		
<b>Actions:</b>	Change has been made.		
98	Standard Provisions, Page. S-2, Items 6 and 11.	Daily Maximum	<p>Definitions of "Daily Maximum" and "Grab Sample" have conflicting wording and need further clarification.</p> <p>Daily Maximum says -- the results to be compared to the "daily maximum" limit are based on "composite samples."</p>

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			Grab Sample says -- used primarily in determining compliance with "daily maximum" limits and the "instantaneous maximum" limits.
<b>Response:</b>	For clarification, the following has been added to Section A.6 (Daily maximum).  <u>"It may apply to grab samples if the collection of composite samples for those constituents is not appropriate because of instability of the constituents."</u>		
<b>Actions:</b>	Change has been made.		
99	Standard Provisions, Page S-7, section 43.	Statistical Analysis	<p>The Bureau requests that the Regional Board clarify that the examples provided are not inclusive, and that additional analytical techniques may be employed. The Bureau suggests that this section be revised as follows:</p> <p>"Statistical analyses" that are useful in determining temporal and spatial trends in the marine environment include, <u>but are not limited to</u>, the following:</p> <p>43 c: Parametric <del>techniques</del> <u>statistics</u></p> <p>43 d: Nonparametric <del>techniques</del> <u>statistics</u></p> <p>43 e: Multivariate techniques [e.g., discriminant analysis, <del>cluster analysis</del>, <del>principal component analysis</del>, <del>classification analyses</del> <u>(cladistic/parsimony analysis of endemism, or phenetic clustering)</u>, non-metric multidimensional scaling (NMDS), principal component analysis (PCA), <u>principal coordinate analysis (PCOA)</u>, and/or multivariate ANOVA (<u>MANOVA</u>).</p> <p>43 f: Biological indices [e.g., species richness (S), Margalef (d), Shannon-Wiener (H'), Brillouin (H), Simpson (SI), Gleason, <del>infaunal index (II)</del> <u>Infaunal Trophic Index (ITI)</u>, evenness, <u>phylogenetic diversity</u>, and <u>taxonomic distinctiveness</u>]</p>
<b>Response:</b>	USPA and the Regional Board have made the revisions as requested. "Benthic Response Index (BRI)" has also been added as an example biological index.		
<b>Actions:</b>	Change has been made.		
100A	Standard Provisions, Page S-13, section 2, and Page S-17, section 14	QA Reporting Date	The Bureau requests that the Regional Board change the QA report deadline to April 15th of each year to coincide with the date of the NPDES annual report.

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<b>Comment #</b>	<b>Document Reference</b> (Doc. #, Page #, Section #, Paragraph #)	<b>Issue</b>	<b>Comments</b>
<b>Response:</b>	The due date has been changed to April 15 <sup>th</sup> to be consistent with the date in the permit.		
<b>Actions:</b>	Change has been made.		
100B	Standard Provisions B7 on Page S-9, C3 on Page S-10, and E3 on Page S-15	Consistency Between Permit and Collection System Settlement Agreement	<p>The portions of Standard Provisions B7, C3, and E3 that deal with collection system overflows need to be updated to be consistent with the recent Collection System Settlement Agreement [See Settlement Agreement and Final Order, <i>U.S. v. City of Los Angeles and Santa Monica BayKeeper v. City of Los Angeles</i>, Case Nos. 98-9039-RSWL and 01-191-RSWL CONSOLIDATED signed by EPA Region IX and the Regional Board on July 8, 2004]. The Bureau requests that the Standard Provisions in the next version of the proposed Permit be updated accordingly.</p> <p>The Bureau also requests that the final version of the permit include language similar to para. 7 of the Settlement Agreement, which states that the permit will "set out the program requirements that the City will implement to reduce Sanitary Sewer Overflows to the maximum extent feasible."</p> <p>Additionally, the Bureau understands that Paragraph C3 on page S-10 of Attachment S to refer to the washout of the plant or its facilities from a 100-year storm or flood. As stated in the Settlement Agreement and Final Order signed by the Court, the collection system is designed for a storm utilizing a 10-year, 24-hour storm over the entire Los Angeles Service area. The Bureau requests that this provision of Attachment S be clarified and made consistent with the Settlement Agreement and Final Order.</p>
<b>Response:</b>	The Settlement Agreement and Final Order was entered by the District Court on October 29, 2004, and is now being implemented. The permittee is bound to abide by the conditions of the Settlement Agreement, as well as by the conditions in the permit. The Settlement Agreement and the permit are not inconsistent. Modifying the Regional Board's Standard Provisions is not warranted because they provide general conditions to be applied to <u>all</u> permittees in the Region. As a matter of compliance, the most stringent requirements apply.		
<b>Actions:</b>	None necessary.		
101	Attachment T- Page T-2 and T-3, Sections D and E, and Sections . I.C, Paragraph 4, I.D., Paragraph 1, and I.F, Paragraph 1.	Inshore Bacteriological Testing.	<p>Item D states that "Data collected at nearshore and inshore monitoring stations has shown no exceedances of the past or current Ocean Plan standards." The Bureau recommends the deletion of this sentence because a comparison of historical nearshore/inshore data indicates concentrations of indicator bacteria have been detected above the current (2001) Ocean Plan limits at selected sites infrequently, from natural or other sources besides HTP.</p> <p>There are over 25 years of data showing that the HTP effluent plume has <u>never</u> been detected less than 2.5 km from shore. Therefore, the Inshore stations are not impacted by</p>

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			the HTP outfall discharge and any exceedance of the single-sample bacteriological limit is the result of a source unrelated to Hyperion's effluent. For this reason, the Inshore monitoring program does not belong in the HTP permit, but perhaps in the MS4 NPDES permit. In addition, the SMBBB TMDL compliance sites are located at ankle-depth at point zero of a flowing drain or mid-point of an open beach, not offshore. It has been proven that this monitoring is not necessary. For these reasons, the Bureau requests that the Regional Board remove inshore monitoring requirements from the HTP permit.
<b>Response:</b>	USEPA and Regional Board staff agree and have revised the sentence as follows:  "Data collected at nearshore and inshore monitoring stations have shown <del>no</del> <u>few</u> exceedances of the past or current Ocean Plan standards." Please also refer to response to Comment no. 18 in the response letter.		
<b>Actions:</b>	Changes have been made.		
102	Attachment T, Pages T-3 and T-37	Enterococcus Method	Page T-3 mentions the inclusion of CS (Enterolert) as a method for enterococcus, but it is not included in bacterial testing parameters for receiving waters (see page T-37). The Bureau recommends the inclusion of both methods units, CFU/100mL and MPN/100mL into the document.
<b>Response:</b>	We acknowledge that CS (Enterolert) is an approved method for identifying enterococcus. Both method units are included in the document on Pages 37 and 38.		
<b>Actions:</b>	Changes have been made.		
103	Attachment T, Page T-4, Section G, Paragraph 2	Use of Medium and Manufacturer as a Method	The method, chromogenic substrate, not the company name or brand, should be used. Idexx is the manufacturer and Colilert is the brand. By specifying the brand name, the Bureau will be locked into using this particular company/brand. The Bureau therefore requests that this attachment to the permit specify the method as chromogenic (CS) or defined substrate.
<b>Response:</b>	USEPA and Regional Board staff agree with the Bureau and several areas in Section G of the permit have been revised accordingly.		
<b>Actions:</b>	Changes have been made.		
104	Attachment T, Page T-3 and T-4, Section G.	Fecal Coliform vs. <i>E. coli</i> .	Paragraph G states that OCSD multiplies <i>E. coli</i> results by 110% to estimate fecal coliform (FC). In essence, they are multiplying their <i>E. coli</i> results by 1.1 to obtain a value for FC. This statement should be rephrased to convey that there is no discrepancy in using the chromogenic substrate over the older method. Change 110% to "Orange County Sanitation District multiplies <i>E. coli</i> results by <del>110%</del> a factor of 1.1 to estimate fecal coliform."



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<b>Response:</b>	USEPA and Regional Board staff have no objections to making the requested change.		
<b>Actions:</b>	Change has been made.		
105	Attachment T, Page T-4, Section G., Last sentence	Fecal Coliform vs. <i>E. coli</i>	This attachment states that: "Hyperion will need to calculate an appropriate multiplier using their own lab results and will require approval...before using Colilert 18 (IDEXX)...for fecal coliform analyses." However, the City was granted approval by the Regional Board to switch over to the CS method for fecal coliform analysis despite the slight bias towards higher counts when using CS. The Bureau recommended and was later approved to use a factor of 1:1 because of the possibility of introducing errors when using a conversion factor. The above statement should be rephrased to reflect the approval granted by the Regional Board (refer to approval letter dated October 16, 2002) regarding the fecal/ <i>E. coli</i> translator of 1:1.
<b>Response:</b>	The letter dated October 16, 2002, clearly indicated that the approval of method change from membrane filtration to chromogenic substrate method for total coliform and fecal coliform is for "shoreline samples only". Since shoreline monitoring has been moved to the Municipal Stormwater Permit provisions, HTP will need to calculate an appropriate multiplier based on their own laboratory results for receiving water samples (inshore and offshore samples) and obtain approval from the Executive Officer and USEPA. The approved translator of 1.1 can not be directly applied for receiving water samples.		
<b>Actions:</b>	None necessary.		
106	Attachment T, Page T-5, Section K.2., "Regional monitoring activities coordinated by SCCWRP"	Eliminate Exclusivity Clause	Change wording in first sentence of 2nd paragraph of K(2) as follows : "The Discharger shall participate in regional activities coordinated by the SCCWRP <u>or any other appropriate agency approved by the Regional Board and USEPA.</u> " The reasons for this change are detailed in the cover letter.
<b>Response:</b>	Please refer to response to Comment no. 20 in the response letter.		
<b>Actions:</b>	Change has been made.		
107	Attachment T, Page T-6, Section K.3., Paragraph 2	Special Studies	As written, this requirement is too cumbersome to implement and dilutes the ad hoc nature of this provision. The Bureau requests that the Regional Board streamline this provision by deleting requirements for formal procedures and revise as follows:  "The scope of each special study shall be determined by the Discharger in coordination with <u>the staff of</u> the Regional Board and USEPA. Each year, the Discharger shall submit proposals for special studies to <u>the staff of</u> the Regional Board and USEPA by September 30, for the following year's monitoring effort (July through June). <del>The following year, detailed scopes of</del>

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			<del>work for proposals, including reporting schedules, shall be presented by the Discharger at a Spring Regional Board meeting, to obtain the Regional Board and USEPA approval and to inform the public. Upon approval by the Regional Board and USEPA, the Discharger shall implement its special study or studies. Once approval is received from the Executive Officer and USEPA, the Discharger shall implement its special study or studies."</del>
<b>Response:</b>	USEPA and the Regional Board disagree with this request. While effort is required, this process has been successfully implemented by the Orange County Sanitation District and the City of San Diego for developing special studies under their effective permits. Taking "special" studies before the Board and the public has not "diluted" outcomes of this process and interested stakeholders need to be able to know and comment on proposed undertakings. However, minor language changes have been made for Paragraph 2. Please refer to response to Comment no. 22 in the response letter.		
<b>Actions:</b>	Minor changes have been made. Please refer to response to Comment no. 22 in the response letter.		
108	Attachment T, Page T-6, Section L., Paragraph 4	Funding for Comprehensive Monitoring Program through Reductions in Existing Monitoring	In the past, the Bureau has been allowed to "resource exchange" routine monitoring with regional monitoring efforts so that there was no net gain in resources expended on the regional monitoring programs. The last sentence of Section I.L should be changed to read as follows:  "These costs <del>will</del> <u>shall</u> be offset through reductions in existing monitoring requirements."
<b>Response:</b>	Please refer to response to Comment no. 21 in the response letter. Paragraph 4 has been rewritten.		
<b>Actions:</b>	Please refer to response to Comment no. 21 in the response letter for the new language.		
109	Attachment T, Page T-6, Section L.	SMBRP Comprehensive Monitoring Program	The Bureau requests removal of this requirement unless it can be scientifically shown that the Hyperion outfall impacts a specific area of concern. The City of Los Angeles may consider participating in relevant portions of this program on a voluntary basis to demonstrate its commitment to the environment. In any case, this requirement should be removed from the Hyperion NPDES permit as unnecessary.
<b>Response:</b>	Please refer to response to Comment No. 21 in the response letter.		
<b>Actions:</b>	Please refer to response to Comment No. 21 in the response letter.		
110	Attachment T, Page T-6, Section L., Paragraph 1, and Page T-7, Section P.	Incorrect Punctuation	"Bightwide" should be changed to "Bight-wide" throughout this attachment.

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<b>Response:</b>	The corrections have been made through the Attachment.		
<b>Actions:</b>	Changes have been made.		
111	Attachment T, Page T-6, Section L., Paragraph 1	Incorrect Acronyms	Many of the regional monitoring programs' acronyms were incorrectly cited. The attachment should be changed to use the correct acronyms, which are SCBPP'94, Bight'98, and Bight'03
<b>Response:</b>	We have replaced "(Bight94, Bight98 and Bight03)" with "(Southern California Bight Pilot Project'94, Bight'98, and Bight'03)"		
<b>Actions:</b>	Changes have been made.		
112	Attachment T, Page T-7, Section O.	Program Reductions	<p>The Regional Board should clarify the fourth point, that bioaccumulation in fish reduction is limited to frequency change and the macroinvertebrate <i>Cancer</i> spp. was eliminated. The wording should be revised as follows:</p> <p><i>"4. Bioaccumulation – reduction in frequency change from semiannual to annual; no replicates required, elimination of triannual collection of macroinvertebrate.</i></p> <p>The Regional Board should also add a sixth point to include:</p> <p><i>6. "Benthic infauna – frequency reduced from semiannual to annual, replicates eliminated.</i></p>
<b>Response:</b>	USEPA and Regional Board staff agree with the Bureau and revisions have been made in Section O. as follows:		
	<p>4. Bioaccumulation in fish – <del>reduction in collection/analysis from 2 to 1 species;</del> <u>reduction in frequency change from semiannual to annual; no replicates required, <del>elimination of triannual collection of macroinvertebrate.</del></u></p> <p>6. <u>Benthic infauna – frequency reduced from semiannual to annual. replicates eliminated.</u></p>		
<b>Actions:</b>	Changes have been made.		
113	Attachment T, Page T-8, Section P.1-3.	Include New 4 <sup>th</sup> Provision	<p>The Regional Board should include a fourth provision as follows:</p> <p><i>"4. Central Bight Water Quality Cooperative Program – coordinated through appropriate agencies for water quality monitoring. The level of participation shall be similar to that provided for the Bight'98 and Bight'03 programs."</i></p>

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<b>Response:</b>	USEPA and Regional Board staff partially agree with the Bureau and have added the following language as #4 in Section P. The second sentence is not included since the program is not part of Bight'98 or Bight'03.		
	4. <u>Central Bight Water Quality Cooperative Program – coordinated monitoring conducted by Orange County Sanitation District, County Sanitation Districts of Los Angeles County, City of Los Angeles and City of Oxnard through appropriate agencies for water quality monitoring.</u>		
<b>Actions:</b>	Changes have been made.		
114	Attachment T, Page T-8, Section R.	Kelp Monitoring	The Bureau requests removal of this requirement. As stated in this draft permit, the Hyperion wastewater plume does not extend to kelp bed areas in Santa Monica Bay, the plume occurs predominantly within 2 km of the outfall and shoals 2.5 km from shore. Kelp beds exist 20 km from the Hyperion outfall (No. 002) and are located above the shoaling depth of the plume. Please remove this unnecessary monitoring requirement from the Hyperion NPDES permit.
<b>Response:</b>	Please refer to response to Comment no. 19 in the response letter.		
<b>Actions:</b>	None necessary.		
115	Attachment T, Page T-9, Section II.C. Paragraph 2	Assessment Reports	The Bureau requests that the Regional Board delete the following reference to 301(h) monitoring because as a full secondary treatment plant, 301(h) provisions do not apply: For this reason, please remove reference to "Design of 301(h) Monitoring Programs for Municipal Wastewater Discharges to Marine Water" (EPA, November 1982; 430/982-010; pages 74-91)
<b>Response:</b>	USEPA and Regional Board staff agree with the Bureau and have deleted the reference to 301(h) guidance in Section II.C.		
<b>Actions:</b>	Change has been made.		
116	Attachment T, Page T-9, Section II.B.	Data Submission	The Bureau of Sanitation computer systems policy no longer allows the use of 3 1/2" floppy disks. Furthermore, the 3 1/2" floppy disk can only store a minimal amount of information. Therefore, the Bureau requests that the permit specify that the City be allowed to submit data on a CD-Rom disk or some other mutually acceptable computer storage media.
<b>Response:</b>	USEPA and Regional Board staff agree with the Bureau and have changed the sentence as follows: "The data shall be submitted to the Regional Board and USEPA on hard copy and on <del>3 1/2" computer diskette</del> <u>a CD-Rom disk or other appropriate electronic medium.</u> "		
<b>Actions:</b>	Change has been made.		
117	Attachment T, Page T-9 and T-10,	Data Submission	Annual report data is the same that is submitted monthly by the City during the year. The permit should specify that the City is not required to submit the same data twice. Further, the

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<b>Comment #</b>	<b>Document Reference</b> (Doc. #, Page #, Section #, Paragraph #)	<b>Issue</b>	<b>Comments</b>
	Sections II.B. & II.F.		Bureau requests removal of the requirement for annual report submittal once the State's electronic submittal program (e-SMR) becomes fully operational.
<b>Response:</b>	As described in section II.B. the annual summary report shall contain a discussion of the previous year's influent/effluent analytical results, as well as graphical and tabular summaries of the monitoring analytical data. In addition, it shall also discuss the compliance record and any corrective actions taken or planned that may be needed to bring the discharge into full compliance with waste discharge and permit requirements. The monthly monitoring report is not so comprehensive and contains only monthly monitoring data as well as the limited discussion about the monthly monitoring results. We believe that annual report submittal is appropriate.		
<b>Actions:</b>	None necessary.		
118	Attachment T, Page T-10, Section III.A., and Attachment P-Page P-1, Section A.1., Paragraph 3	Inconsistent Annual Monitoring Month.	In the Monitoring and Reporting Program, the months specified for semiannual monitoring are January and July. In Attachment P, the month specified for annual monitoring is August. The month for annual monitoring should be changed from August to July in Attachment P to coincide with the semiannual reports and avoid the need for an additional report to be filed.
<b>Response:</b>	Because Attachment P contains our standard Pretreatment Requirements, we will not change it. However, we will add the following language to Section III. F. of the Order:		
	<u>"A full scan of the priority pollutants for the influent and effluent should be conducted at least annually in July."</u>		
<b>Actions:</b>	Change has been made.		
119	Attachment T, Page T-10, Section III.A.	Reporting Requirements	Attachment T states that the results of quarterly, semiannually, and annual analyses shall be reported in monthly monitoring report following the analysis. A more flexible reporting schedule is needed for quarterly, semiannual and annual data because some of the analyses will not be ready by the following month after analyses are performed as asked for in the permit. For example, quarterly report should be due on second month of the following quarter.

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<b>Response:</b>	As specified in Section II.A., the monthly monitoring reports shall be received by the Regional Board and USEPA by the 15 <sup>th</sup> day of the second month following the end of each monthly reporting period. We believe that 45 days after sampling provides adequate time for sample analysis and report preparation. For clarification, the following reporting schedule table is added in Section II.A.		
	<u>Monitoring Frequency</u>	<u>Report Due</u>	
	<u>Continuous, Daily, Weekly, Monthly</u>	<u>By the 15<sup>th</sup> day of the second month.</u>	
	<u>Quarterly</u>	<u>March 15 (1<sup>st</sup> Q), June 15 (2<sup>nd</sup> Q), September 15 (3<sup>rd</sup> Q), December 15 (4<sup>th</sup> Q)</u>	
	<u>Semiannually</u>	<u>March 15 (1<sup>st</sup>), September 15 (2<sup>nd</sup>)</u>	
	<u>Annually</u>	<u>September 15</u>	
<b>Actions:</b>	Changes have been made.		
120	Attachment T, Page T-11, Section III.C.	Chain of Custody (COC) Requirements	Attachment T requires that a copy of the COC shall be submitted with monthly report. If the COCs are included in the monthly report for every piece of data, the document will be voluminous. For this reason, the Bureau requests that the Regional Board change the last sentence from "Proper chain of custody---with the monthly report" to "Proper chain of custody procedures must be followed and the discharger shall retain the documentation in its files and <u>make available for inspection and/or submit them when requested by the Regional Board and /or USEPA.</u> "
<b>Response:</b>	Regional Board staff use Chain of Custody documentation as the first step in determining the quality of data. <u>All</u> dischargers are required to submit Chain of Custody documents.		
<b>Actions:</b>	None necessary.		
121	Attachment T, Page T-11, Section D.	Sample Dilution Range	The bracketed values of 2 to 16,000 per 100 mL for total and fecal coliform, and 1 to 1000 per 100mL for enterococcus applies only when the multiple tube fermentation method or the membrane filtration method is used. The detection limit and calculated values for CS will be different. The current range for the CS method is 67 to 13000 per 100 ml. The statement should be rephrased so that either method (MF or CS) can be used with their respective detection limits and values and, thus, not be constrained with one set of bracketed values.

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<b>Response:</b>	USEPA and Regional Board staff agree with the Bureau and have revised the language in Section III.D. as follows:  "For bacteria analyses, sample dilutions should be performed so the expected range of values is bracketed ( <u>for example, with multiple tube fermentation method or membrane filtration method</u> , 2 to 16,000 per 100ml for total and fecal coliform, at a minimum, and 1 to 1000 per 100 ml for enterococcus)."		
<b>Actions:</b>	Changes have been made.		
122	Attachment T, Page T-11, Section D.2.	Enterococcus Method Omitted	The Regional Board is considering the use of the chromogenic/flouramentric method for enterococcus based on a letter dated September 2004 from the City of Los Angeles. This method was implemented for total coliforms, and fecal coliforms ( <i>E. coli</i> ) for shoreline stations on December 2, 2002, which has resulted in faster reporting time (18 hours <i>in lieu</i> of 24 hrs) of these important indicator bacteria. The flexibility to use the chromogenic method for the two indicator bacteria was approved by the Regional Board in the letter dated October 16, 2002. The Bureau recommends the inclusion of the chromogenic/flouramentric method for enterococcus into the Hyperion NPDES Permit.
<b>Response:</b>	Section G of MRP clearly states that USEPA approved methods for total coliform, fecal coliform and enterococcus include the chromogenic/fluorogenic method. In addition, in response to the City's request, our letter dated November 3, 2004 approved the use of chromogenic substrate method for enterococcus testing. The link to EPA's Federal Register notice for approved test procedures for bacteria and protozoa in ambient water is specified below. These test methods, which were approved by EPA on July 21, 2003 and included in 40 CFR 136, Table IA when it was revised on July 1, 2004, are for the analysis of <i>Escherichia coli</i> , enterococci, <i>Cryptosporidium</i> , and <i>Giardia</i> in ambient water. Please also see response to Comment #105 above.  <a href="http://www.epa.gov/fedreg/EPA-WATER/2003/July/Day-21/w18155.htm">http://www.epa.gov/fedreg/EPA-WATER/2003/July/Day-21/w18155.htm</a>		
<b>Actions:</b>	None necessary.		
123	Attachment T, Page T-11, Section IV.A	Differing MLs	The GCMS MLs listed in Attachment T-1, Page 2 and in the 2001 Ocean Plan are different. The MLs listed for the GCMS method in Attachment T-1 for 1,2,4-Trichlorobenzene, 2,6-Dinitrotoluene, 2-Chloroethyl vinyl ether, 2-Chloronaphthalene, 4-Bromophenyl phenyl ether, 4-Chlorophenyl phenyl ether, Butyl benzyl phthalate, and Di-n-Octyl phthalate are different than the MLs listed in the 2001 Ocean Plan. Please correct to ensure the City uses the appropriate, approved MLs.
<b>Response:</b>	USEPA and Regional Board staff agree that the MLs listed in the 2001 Ocean Plan should be used, and have revised Attachment T-1 accordingly.		
<b>Actions:</b>	A new Attachment T-1 has been prepared.		

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124	Attachment T, Page T-13, Section H. 1.	Delete Tidal Stage and Height	The Bureau requests that the Regional Board delete tidal stage and height from this requirement because these parameters are not measured at the time of sampling and, therefore, are not incorporated into the observations made at time of sampling. These measurements, however, may be relevant for assessment purposes and are easily obtainable from charts after sampling is completed.
<b>Response:</b>	We understand that these parameters are not measured by the Bureau at the time of sampling. Since tidal stage and height data are relevant to the receiving water characteristics, we believe these data are valuable and should be included in the report. The Bureau may obtain data from other sources.		
<b>Actions:</b>	None necessary.		
125	Attachment T, Page T-13, Section H. 2.	Delete "Observations Relevant to Survey Design"	<p>Survey design is discussed prior to commitment to perform the monitoring and critiqued in context with data assessment, but not observed in the field. If so, then clarification of this statement is required so that it refers to only field observable parameters for the station and not the sample.</p> <p>The Bureau requests that the Regional Board replace H2 with the following wording:</p> <p>H.2. <i>"The date, exact place, and description of sampling stations, including differences unique to each station (e.g., date, time, station location, depth, and sample type)."</i></p>
<b>Response:</b>	USEPA and Regional Board staff agree. The following language will be used for H.2.:		
	H.2. <i>"The date, exact place, and description of sampling stations, including differences unique to each station (e.g., date, time, station location, depth, and sample type)."</i>		
<b>Actions:</b>	Changes have been made.		
126	Attachment T, Page T- 14, Section K.3.	Definition Needed	The Regional Board should define the phrase "limited pollutants of concern."
<b>Response:</b>	We have changed the phrase "limited pollutants of concern" to "relevant pollutants of concern". The Bureau needs to determine the list of pollutants to be analyzed after considering the characteristics of collection areas of the spilled wastewater. This includes toxicity testing.		
<b>Actions:</b>	Minor change has been made.		
127	Attachment T, Page T-15 Section V.C.	Radioactivity Influent and Effluent Monitoring	The Bureau requests a change from monthly influent and effluent monitoring frequency to quarterly monitoring due to the very low levels of radioactivity detected during the last five



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	and Page T-20, Section VI.C.	Frequency.	years.  Also, please note and correct the typographical error on Pages T-15 and T-20 ("strontium" – should be "strontium").
<b>Response:</b>	Because of the cumulative effects of radioactivity, we believe that the monthly monitoring for radioactivity is appropriate. However, we believe that the monthly analyses of additional radiochemical are not necessary if gross alpha and beta results are within the respective limits. Therefore, the radioactivity testing protocol has been modified. Please refer to response to Comment No. 23 in the response letter for details. The spelling has been corrected for "strontium".		
<b>Actions:</b>	Changes have been made.		
128	Attachment T, Page T-15, Section V.C., Page T-20, Section VI.C., and Page T-24, Footnote [4]	Radioactivity Analyses	The Bureau requests deletion of analyses of additional radiochemicals (e.g., gross alpha, radium-226 & radium-228, tritium, strontium-90 and uranium). The 1994 Permit requires routine monitoring of gross and net beta activity. The monitoring of additional species is required only if the gross radioactivity exceeded the permit limit. Therefore, our request is to retain monitoring of Title 17 radioactivity according to the 1994 Permit and the 2001 Ocean Plan. Also see comment numbers 18 and 53 above.
<b>Response:</b>	Please see response to Comment # 127.		
<b>Actions:</b>			
129	Attachment T, Page T-16, Section V.C., Page T-18, Section V.C, and Page T-23, Section VI.C.	Phenolic Compounds (chlorinated and non-chlorinated)	<p>These groups of phenolic compounds are not explicitly defined anywhere in the Tentative Permit or attachments. These compounds should be explicitly defined either in the definition section of the permit or in the footnotes to the effluent limits/PGs or the monitoring program requirements.</p> <p>The Bureau recommends using the sum of 2-Chlorophenol, 2,4-Dichlorophenol, 4-Chloro-3-methylphenol, 2,4,6-Trichlorophenol, and Pentachlorophenol as the definition of "chlorinated phenolic compounds," and recommends using the sum of Phenol, 2,4-Dimethylphenol, 2-Nitrophenol, and 4-Nitrophenol, 2,4-Dinitrophenol and 4,6-Dinitro-2-Methylphenol as "non-chlorinated phenolic compounds."</p>

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<b>Response:</b>	USEPA and Regional Board staff agree with the proposed definitions for chlorinated phenolic compounds and nonchlorinated compounds. These definitions have been added to the appropriate sections in the permit and MRP.		
<b>Actions:</b>	Changes have been made.		
130	Attachment T, Page T-18, Section V.C, and Page T-23, Section VI.C.	Reporting Units for Influent and Effluent for Chromium (III)	Chromium (III) has different units for influent (mg/L) and effluent (ug/L). Units for Chromium (III) should be ug/l for both influent and effluent.
<b>Response:</b>	Unit for Chromium for influent has been changed to ug/L.		
<b>Actions:</b>	Change has been made.		
131	Attachment T, Page T-21 and T-24, footnote [18] , Page T-47, T-47, and Page T-50, footnote [9]	No MLs for 41 PCB Congeners.	<p>Influent and effluent PCB congener monitoring should be changed to PCB Aroclors. PCB has been banned for many years. Very infrequently PCB is detected in influent and never detected in effluent. Similarly, Biosolids PCB congener monitoring should be changed to PCB Aroclor. Biosolids 40 CFR 503 regulation requires monitoring of Aroclors only.</p> <p>The Bureau recommends that the PCB Monitoring for sediment and trawl tissue change from congeners to Aroclors as in previous permit, and keep congener monitoring during regional monitoring program.</p> <p>Historically, the City has been monitoring the Aroclors for sediment and trawl tissue analyses. To address the temporal and spatial issue of PCB, it is best to keep Aroclors monitoring. For rig fish, the Bureau suggests that only arochlors be monitored except during regional monitoring surveys. During regional monitoring surveys, the Bureau proposes to monitor all 41 congeners according to methodology selected by regional monitoring technical committee.</p>
<b>Response:</b>	There are no MLs specified for the 41 PCB congeners listed in the 2001 Ocean Plan. The Bureau may follow the methodology selected by the regional monitoring technical committee. Since some PCB congeners are more toxic than others, USEPA and the Regional Board need to know the PCB congeners distribution in the environment and in the effluent. If the Bureau needs PCB Aroclor data for data comparison, it can be readily calculated form the same instrumental printout.		
<b>Actions:</b>	None necessary.		
132	Attachment T, Page T-20, Section VI.C., and Page T-24,	Radioactivity Monitoring	Monitoring of radioactivity should be kept as it was defined in the current 1994 permit with a quarterly monitoring frequency. The current permit requires routine monitoring of gross alpha and gross beta radioactivity and required monitoring of the individual species only if the gross

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	footnote [4]		radioactivity values exceeded the permit limit. Historically, radioactivity of effluent never exceeded the HTP permit limits for gross alpha or gross beta radioactivity.
<b>Response:</b>	Please refer to response to Comment #127 above.		
<b>Actions:</b>			
133	Attachment T, Page T-25, Section D.	SMB Annual Assessment Report	This Receiving Water Monitoring Report is not an annual report. The attachment needs to have the wording corrected to state "Biennial" (once every two years).
<b>Response:</b>	As stated in Section II.C of MRP, an annual summary report of the receiving water data is required. No change is needed.		
<b>Actions:</b>	None necessary.		
134	Attachment T, Page T- 25, Footnote [17]	Temperature Sampling	Attachment T states that temperature sampling shall be continuous and maximum daily temperature shall be reported. This requirement conflicts with specifications in the permit to take the temperature sample by grab. For this reason, the Bureau requests the removal of footnote 17.
<b>Response:</b>	Type of sample for temperature has been changed from "grab" to "continuous". The sampling frequency "daily" has been deleted.		
<b>Actions:</b>	Changes have been made.		
135	Attachment T, Page T- 25, Footnote [18]	Compositing VOC Samples	It is impractical to composite VOC samples. Also, VOC samples are collected with no headspace. If the City has to combine the different grab samples, then some VOCs may be lost while compositing the sample and results will be lower than the actual VOC concentration. Thus, the Bureau requests the deletion of Footnote 18 because the requirement of the sample type is "grab" (see pages T-17 and T-22).
<b>Response:</b>	USEPA and the Regional Board agree to delete the content of Footnote [18] for Influent and Effluent Monitoring Program on Page T-23. The VOC analyses should be conducted on a single grab sample.		
<b>Actions:</b>	Change has been made.		
136	Attachment T, Page T-28, Section VI.E.1.a, Paragraph 1	Acute Toxicity Testing	Acute toxicity tests are historically a technology-based monitoring tool used to standardize the measurement of the toxicity of freshwater effluent with a freshwater organism. To combine a marine organism with a water quality-based limit seems contrary to the original intent of the acute toxicity test. Chronic toxicity tests may be better a measure based on a water quality objective, although chronic toxicity tests also have limitations and can inaccurately report false

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<b>Comment #</b>	<b>Document Reference</b> (Doc. #, Page #, Section #, Paragraph #)	<b>Issue</b>	<b>Comments</b>
			positives a large percentage of the time. The Bureau, therefore, requests the toxicity testing requirements be removed, or at least not be the basis for compliance. This can be accomplished by removing the numeric effluent limitations for toxicity.
<b>Response:</b>	The City is describing their preference for a mixed framework of technology- and water quality-based approaches to controlling toxicity in ocean discharges that was used by California prior to 2001. The updated 2001 Ocean Plan now contains a water quality objective for acute toxicity that is not comparable to historical outdated technology-based acute toxicity requirements in older versions of the Ocean Plan. USEPA and the Regional Board disagree with the City's interpretation of acute and chronic toxicity provisions in the Ocean Plan and their application to the HTP discharge. We have provided detailed responses to these and related comments in responses to Comment nos. 12, 13 and 14 in the response letter.		
<b>Actions:</b>	None necessary		
137	Attachment T, Page T-28, Section VI.E.1.a, Paragraph 3	Test Method for Discharge No. 001	On many occasions, the discharge through the Discharge Serial No. 001 lasts less than 24 hrs making 24-hr composite sampling impractical and non-representative. The Bureau requests that grab samples be allowed in place of 24-hr composite samples for this outfall.
<b>Response:</b>	Please refer to Footnote [1] of Influent and Effluent Monitoring Program on Page T-23 for instructions. For discharge duration of less than eight hours, individual "grab samples" may be substituted for "com posite samples".		
<b>Actions:</b>	None necessary.		
138	Attachment T, Page T-28, Section VI.E.1.b.(1), Paragraph 1, and Page T-29, Section VI.E.2.b.(1), Paragraph 1	Acute and Chronic Toxicity Screening	If, on the first set of screening tests, the most sensitive species is the same species as the previous monitoring period, the Bureau requests that the subsequent screening tests for that year be stopped and the species be used for the following monitoring period.
<b>Response:</b>	Please see responses to Comment no. 27 in the response letter.		
<b>Actions:</b>	Please see responses to Comment no. 27 in the response letter.		
139	Attachment T, Page T-28, Section VI.E.1.b.(1), Paragraph 1	Acute Screening	If the acute toxicity tests are not deleted, the Bureau requests that the acute screening period begin in July 2005 to allow for state (ELAP) certification and preparation, because most of 2004 will have passed by the time the permit has been approved.

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<b>Comment #</b>	<b>Document Reference</b> (Doc. #, Page #, Section #, Paragraph #)	<b>Issue</b>	<b>Comments</b>
<b>Response:</b>	The date has been changed from 2004 to 2005 – with no month specified – in the Monitoring and Reporting Program.		
<b>Actions:</b>	Change has been made.		
140	Attachment T, Page T-29, Section VI.E.1.c, Paragraph 3	Toxicity Reporting for Discharge Serial No. 001	Ocean Plan states that there are 3 acceptable ways to calculate a TUa. The draft permit states the TUa be calculated based on hypothesis testing (control vs. 100%). The utility of hypothesis testing as a means of estimating toxicity has been contested by many groups. There is an alternative formula based on percent survival in 100% effluent that can also be used to calculate TUa. The Bureau requests that other alternate formulas be allowed as an alternative to the approach specified.
<b>Response:</b>	The acute toxicity requirements described by the City are no longer specified in the final permit for reasons detailed in response to Comment no. 12 and attachment #6 in the response letter. The alternative formula described by the City is awaiting update, by the State Board, as it pertains to the new acute toxicity objective of 0.3 TUa.		
<b>Actions:</b>	See response to Comment no. 12 (and attachment #6) for changes.		
141	Attachment T, Page T-29, Section VI.E.2.b.(1), Paragraph 1, and Page T-30, Section E.3.d	Chronic Toxicity Tests for Discharge Serial No. 001.	<p>Discharge Serial No. 001 is permitted for emergency discharge of chlorinated secondary treated effluent during extremely high flows, power failures, and preventive maintenance. All of these discharges tend to be a short-term event (acute event) and the dilution and dissipation of the discharged effluent occurs quickly and presents no lasting effects on the organisms in the immediate area. The Bureau requests that chronic toxicity test for Serial No. 001 be deleted as unnecessary due to the infrequency of uses of this outfall.</p> <p>If retained, the Bureau requests that a method be documented or the Instream Waste Concentration (IWC) be removed. Although an IWC exists (Page 30, 3.d), no method for conducting the chronic test for Discharge Serial No. 001 is mentioned.</p>
<b>Response:</b>	See response to Comment no. 13 (and attachment #6) in the response letter for changes. Also, applicable chronic test methods are specified on p. T-29 of the tentative monitoring and reporting program.		
<b>Actions:</b>	See response to Comment no. 13 (and attachment #6) in the response letter for changes		
142	Attachment T, Page T-30, Section VI.E.3.e, Paragraph 1	Quality Assurance	The permit states that the Percent Minimum Significant Difference (PMSD) bounds for the west coast methods (EPA/600/R-95/136) are contained in Table 3-6. They are only reported for one species in West Coast Methods (Mysid: <i>H. costata</i> ). Furthermore, the PMSD bounds for <i>H. costata</i> are only based on data from 2 labs. No PMSD values are listed in the table for the other West Coast species. The Bureau requests that this section be dropped until further testing can demonstrate the validity of this requirement.

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<b>Response:</b>	MSDs and associated test acceptability criteria for West Coast chronic marine methods are found in the EPA methods manual, EPA/600/R-95/136. PMSDs for EPA's 2002 WET test methods are found in EPA 833-R-00-003 while associated test acceptability criteria are contained in this permit. To correct this confusion, the following changes have been made to the referenced paragraph:  First sentence, begin with "When using 2002 WET test methods," and strike "for chronic toxicity".  Second sentence, strike "methods EPA/600/R-95/136", and change " for test" to "for these tests".		
<b>Actions:</b>	Changes have been made.		
143	Attachment T, Page T-34, Section VI.E.7.a, Paragraph 1	Ammonia Removal	The Bureau has demonstrated with past acute toxicity tests (1996-2004) that the toxicity of the HTP secondary effluent can be mitigated with the control of unionized ammonia. The Bureau, therefore, requests that, if acute testing is retained concurrent acute tests be allowed on effluent with and without unionized ammonia control and that both results be reported to the Regional Board, but that the tests containing ammonia would not be considered violations of the toxicity limits, if maintained. (See also Attachment 6 for language changes requested)
<b>Response:</b>	Please see response to Comment no. 12 in the response letter.		
<b>Actions:</b>	Please see response to Comment no. 12 in the response letter.		
144	Attachment T, Page T- 35, Section 8.a.	Reporting Dates	The Tentative Permit contains an internal inconsistency in reporting deadlines. Attachment T states that the full report shall be submitted by the end of the month in which DMR is submitted. But, the permit requires that monthly reports are due on the 15 <sup>th</sup> day of second month following the sampling. The Bureau requests that the reporting deadline in Attachment T be the same as monthly report i.e., on 15 <sup>th</sup> day of second month following the sampling.
<b>Response:</b>	USEPA and Regional Board staff agree to the change and have revised the reporting due date in Section VI.E.8.a. as follows:  a. The full report shall be <del>submitted</del> received by the Regional Board and USEPA by the 15 <sup>th</sup> day of the second month following sampling <del>by the end of the month in which the DMR is submitted.</del>		
<b>Actions:</b>	Change has been made.		
145	Attachment T, Pages T-36-37, Section VII.A.1, Paragraph 1	Fecal Coliform vs. <i>E.coli</i>	For enterococcus, MPN/100 mL should also be added under units.

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<b>Response:</b>	USEPA and Regional Board staff agree and have added the unit "MPN/100ml" for enterococcus.		
<b>Actions:</b>	Change has been made.		
146	Attachment T, Page.T-37 Section VII.A.2, Paragraph 1	Inshore Water Quality Monitoring Stations	Attachment T states that "sampling stations shall be sampled at a distance of 1000 ft..." This is a location error. Inshore I-11 is not 1000 ft from shoreline or at the 30 ft. depth contour. It should be noted that I-11 is located at King Harbor in Redondo Beach and is an exception to the general statement. The Bureau requests that this be changed in the final version of this attachment.
<b>Response:</b>	USEPA and Regional Board staff agree and have added an exception language to the end of Paragraph 1 as follows:		
	"...whichever is further from shore <u>(except that station IS-11 is located at King Harbor in Redondo Beach).</u>		
<b>Actions:</b>	Change has been made.		
147	Attachment T, Page.T-37 Section VII.A.2, Paragraph 1	Incorrect Station Names	The Regional Board should correct the station names to the currently used "IS" designation and include leading "0" resulting in the following designations: IS01, IS02, IS03, IS04, IS05, IS06, IS07, IS08, IS09, IS10, and IS11.
<b>Response:</b>	The inshore station names have been corrected.		
<b>Actions:</b>	Changes have been made.		
148	Attachment T, Page.T-37, Section VII.A.2, Paragraph 1	Incorrect Coordinates	The IS-01 Longitude should be corrected from "118 48.017" to "118 48.067" The IS-06 Latitude should be corrected from "34 00.150" to "34 0.201". The I-6 Longitude should be corrected from "118 29.700" to "118 29.923" The IS-08 Longitude should be corrected from "118 27.683" to "118 27.583" The IS-11 Latitude should be corrected from "50.833" to "50.000"
<b>Response:</b>	The corrections have been made.		
<b>Actions:</b>	Changes have been made.		
149	Attachment T, Page.T-37, Section VII.A.2, Paragraph 1, and Page T-39, Section VII.3.	Incorrect Footnotes	The asterisk footnote should be corrected from "Given in decimal degrees" to "Given in decimal <u>minutes</u> ."

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<b>Comment #</b>	<b>Document Reference</b> (Doc. #, Page #, Section #, Paragraph #)	<b>Issue</b>	<b>Comments</b>
<b>Response:</b>	The corrections have been made.		
<b>Actions:</b>	Changes have been made.		
150	Attachment T, Page.T-37 Section VII.B.1, Paragraph 1.	Typographic Error	Delete extra space between two words: ...Angeles contribute...
<b>Response:</b>	The extra space has been deleted.		
<b>Actions:</b>	Changes have been made.		
151	Attachment T, Page.T-38, Section VII.B.2, Paragraph 2 and 3	Sample Design	<p>The second and third paragraphs are confusing. This section should state clearly that there are 21 discrete stations, that discrete samples are to be taken at depths of 1 meter (samples cannot be taken at 0 m), 15, 30, and 45 m for ammonia, total coliform, fecal coliform (<i>E. coli</i>), and enterococcus, and to note that for stations located at 40 m depth, discrete samples are taken as deep as practical.</p> <p>The Bureau requests the following change:  “Concurrent with the CTD profiling survey, discrete samples<sup>[2]</sup> shall be collected quarterly at all 21 offshore discrete sampling stations for ammonia and fecal coliform (or <i>E. coli</i>) at fixed depths of 1, 15, 30, and 45 meters (or as deep as practical for those stations located in depths less than 45 m) as noted in the next section - Water Quality Survey Sites.”</p>
<b>Response:</b>	USEPA and Regional Board staff agree to the changes and have replaced Paragraphs 2 and 3 with the following:		
<b>Actions:</b>	<p>“Concurrent with the CTD profiling survey, discrete samples<sup>[2]</sup> shall be collected quarterly at all 21 offshore discrete sampling stations for ammonia and fecal coliform (or <i>E. coli</i>), total coliform and enterococcus at fixed depths of 1, 15, 30, and 45 meters (or as deep as practical for those stations located in depths less than 45 m) as noted in the next section - Water Quality Survey Sites. Parameters to be monitored include:”</p> <p>Changes have been made.</p>		
152	Attachment T, Page.T-38, Section VII.B.2, Paragraph 2, second sentence	Parameters to be Collected Quarterly per Sample	In the 1994 NPDES permit, offshore samples were only being analyzed for fecal coliforms. The new permit is proposing the addition of total coliforms and enterococci. Fecal coliform counts at these stations have historically been low. The analyses for fecal coliform, ammonia, salinity, temperature, and transmissivity are performed to help confirm the presence/absence and location of the plume. As such, the addition of these two indicator bacteria will not provide any additional information regarding these stations and the location of the plume. The Bureau requests removing total coliforms and enterococci from the offshore monitoring program.



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Comment #	Document Reference (Doc. #, Page #, Section #, Paragraph #)	Issue	Comments
<b>Response:</b>	For marine waters designated for water contact recreation (REC-1), the updated water quality objectives for bacteria in the amended Basin Plan include three bacterial indicators: total coliform, fecal coliform, and enterococcus. REC-1 is one of existing beneficial uses for the offshore receiving water so these bacterial indicators are required to be included in the offshore monitoring program.		
<b>Actions:</b>	None necessary		
153	Attachment T, Page T-38, Section VII.B.2, Paragraph 1, Page T-40, Section VII.C.1.b., Paragraph 1, and Page T-44, Section VII.D.1.b., Paragraph 1	Sampling Protocols, Referenced in Three Locations	<p>Regional monitoring field sampling protocols, such as the Bight'98 Field Operations Manual, are inappropriate for on-going point-source monitoring programs because these protocols address specific issues unique to the Bight-wide regional monitoring programs. However, a revised version of the Field Operations Manual containing a less specific protocol that can be more universally applied by the regulated agencies is available for use. The Bureau requests the following change:</p> <p>“Sampling techniques will follow protocols described in the <u>most current edition of the Field Operations Manual for Marine Water-Column, Benthic, and Trawl Monitoring in Southern California.</u>”</p>
<b>Response:</b>	<p>The reference has been changed to the most current version of the Bight Field Operations Manual. The modifications in three location are as follows:</p> <p>B.2. Sampling Design – Fifty-four offshore water quality stations shall be sampled quarterly by a CTD profiler (see Figure 1). Sampling techniques will follow protocols described in the <u>most recent Bight Regional Marine Monitoring Survey Bight'98 Field Operations Manual</u> (<del>Southern California Bight 1998 Regional Marine Monitoring Survey Field Operations Manual, Bight'98 Steering Committee, July 1998</del>).</p> <p>C.1.b. Sampling Design - Forty-six offshore sampling stations (26 fixed stations plus one set of 20 random stations) within Santa Monica Bay shall be sampled annually for benthic monitoring. The benthic stations shall be sampled in July/August for sediments following protocols described in the <u>most recent Bight Regional Marine Monitoring Survey Bight'98 Field Operations Manual</u>. One sample shall be taken at each station for benthic infauna for community analyses<sup>[7]</sup> by means of a 0.1 m<sup>2</sup> (1.1 ft<sup>2</sup>) modified Van Veen sediment grab sampler.</p> <p>D.1.b. Sampling Design - Trawling stations shall be sampled semi-annually for demersal fish and epibenthic invertebrates following protocols described in the <u>most recent Bight Regional Marine Monitoring Survey Bight'98 Field Operations Manual</u>.</p>		
<b>Actions:</b>	Changes have been made.		
154	Attachment T, Page T-40, Section VII.C.1.b. Paragraph 1, second sentence	Change Sampling Months	<p>The Bureau requests that the Regional Board change the applicable sampling period to the 3-month summer period and, as noted in comment above, delete reference to regional field sampling protocol. This section should be changed as follows:</p> <p>“The benthic stations shall be sampled in summer (July – September) for sediments...”</p>

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<b>Response:</b>	USEPA and Regional Board staff agree to the change.		
<b>Actions:</b>	Change has been made.		
155	Attachment T, Page T-40, Section VII.C.1.b. Paragraphs 1 and 2	Survey Sites	<p>Attachment T states an incorrect number; there are a total of 66 offshore stations of which only 64 are benthic stations. Also, the Bureau requests that the Regional Board clarify the fact that there are two sets of random stations sampled in alternating years and that only one set should be used during the fifth year of sampling. Each set provides for probabilistic estimates of spatial trends independently and, as designed, are intended to be used individually, not together.</p> <p>As such, the Bureau requests the following changes:</p> <p>“<u>Forty-four</u> offshore sampling stations (<u>24</u> fixed stations plus one set of 20 random stations) within Santa Monica Bay shall be sampled annually for benthic monitoring. <u>Random station sets A and B will be sampled in alternate years.</u>” and “During the fifth year of the permit, <u>44</u> sediment stations (<u>24</u> fixed stations plus one set of 20 random stations) shall be sampled for priority pollutant analyses as indicated below.”</p>
<b>Response:</b>	USEPA and Regional Board staff have changed the total number of offshore stations to 64 and included “Random station sets A and B will be sampled in alternate years.” in Paragraph 1 of Section VII.C.b. However, since the priority pollutants analyses are required to be conducted only once at 64 sampling stations (24 fixed stations plus two sets of 20 random stations) during the permit period we retain the requirement of sampling all 64 stations during the fifth year of the permit. For clarification, we add “In addition” at the beginning of Paragraph 3 of Section VII.C.b.		
<b>Actions:</b>	Change has been made.		
156	Attachment T, Page T-41, Section VII.C.1.c.	Survey Sites	<p>As stated previously, there are a total of 66 offshore stations of which only 64 are benthic stations, two stations are trawl-only locations. Additionally, list does not include provision for random trawl stations. The Bureau requests the following wording changes:</p> <p>“<u>Sixty-four</u> offshore benthic stations are identified in the sampling design (see Figure 2 and 3). This revised station array was accepted by the Regional Board and USEPA in December 1998 and implemented in January 1999 to better assess the impact on the benthic community as a result of full secondary treatment at Hyperion Treatment Plant. Stations were shifted from the previous equidistant, depth contour-based grid to a combination fixed station/random station array with <u>24</u> stations from the old array.”</p>

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157	Attachment T, Page T-41, Section VII.C.1.c.	Survey Sites	<p>The Survey Sites - Benthic and Trawl Stations coordinates are incorrect plus the list does not include provision for random trawl stations. The corrected coordinates with provision for random trawl stations are as follows:</p> <table><thead><tr><th>Station</th><th>Latitude*</th><th>Longitude*</th></tr></thead><tbody><tr><td>A1 (T)</td><td>33 59.183 118</td><td>30.117</td></tr><tr><td>A2</td><td>33 55.117 118</td><td>26.883</td></tr><tr><td>A3 (T)</td><td>33 52.050 118</td><td>25.000</td></tr><tr><td>B1</td><td>34 0.417 118</td><td>42.933</td></tr><tr><td>B3</td><td>34 0.350 118</td><td>35.833</td></tr><tr><td>B5</td><td>33 57.983 118</td><td>31.533</td></tr><tr><td>B6</td><td>33 56.467 118</td><td>30.567</td></tr><tr><td>B7</td><td>33 55.283 118</td><td>29.500</td></tr><tr><td>B8</td><td>33 53.800 118</td><td>28.450</td></tr><tr><td>B10</td><td>33 50.483 118</td><td>24.940</td></tr><tr><td>C1 (T)</td><td>33 59.833 118</td><td>43.050</td></tr><tr><td>C3 (T)</td><td>33 59.383 118</td><td>36.033</td></tr><tr><td>C5</td><td>33 57.167 118</td><td>33.233</td></tr><tr><td>C6 (T)</td><td>33 55.683 118</td><td>32.083</td></tr><tr><td>C7</td><td>33 53.583 118</td><td>32.250</td></tr><tr><td>C8</td><td>33 52.750 118</td><td>31.417</td></tr><tr><td>C9A (T)</td><td>33 51.283 118</td><td>26.283</td></tr><tr><td>D1 (Benthic)</td><td>33 54.700 118</td><td>33.000</td></tr><tr><td>D1T (T)**</td><td>33 54.805 118</td><td>32.215</td></tr><tr><td>E1</td><td>33 59.057 118</td><td>42.867</td></tr><tr><td>E3</td><td>33 58.317 118</td><td>36.867</td></tr><tr><td>E6</td><td>33 55.700 118</td><td>33.417</td></tr><tr><td>E10</td><td>33 49.405 118</td><td>27.880</td></tr><tr><td>Z1</td><td>33 54.883 118</td><td>31.500</td></tr><tr><td>Z2 (T)</td><td>33 54.450 118</td><td>31.467</td></tr><tr><td>Z3 (T)**</td><td>33 54.005 118</td><td>30.395</td></tr><tr><td>Z4 (T)**</td><td colspan="2">to be determined</td></tr><tr><td colspan="3">Year 1 random stations</td></tr><tr><td>NA1</td><td>33 53.396 118</td><td>31.190</td></tr></tbody></table>	Station	Latitude*	Longitude*	A1 (T)	33 59.183 118	30.117	A2	33 55.117 118	26.883	A3 (T)	33 52.050 118	25.000	B1	34 0.417 118	42.933	B3	34 0.350 118	35.833	B5	33 57.983 118	31.533	B6	33 56.467 118	30.567	B7	33 55.283 118	29.500	B8	33 53.800 118	28.450	B10	33 50.483 118	24.940	C1 (T)	33 59.833 118	43.050	C3 (T)	33 59.383 118	36.033	C5	33 57.167 118	33.233	C6 (T)	33 55.683 118	32.083	C7	33 53.583 118	32.250	C8	33 52.750 118	31.417	C9A (T)	33 51.283 118	26.283	D1 (Benthic)	33 54.700 118	33.000	D1T (T)**	33 54.805 118	32.215	E1	33 59.057 118	42.867	E3	33 58.317 118	36.867	E6	33 55.700 118	33.417	E10	33 49.405 118	27.880	Z1	33 54.883 118	31.500	Z2 (T)	33 54.450 118	31.467	Z3 (T)**	33 54.005 118	30.395	Z4 (T)**	to be determined		Year 1 random stations			NA1	33 53.396 118	31.190
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C7	33 53.583 118	32.250																																																																																											
C8	33 52.750 118	31.417																																																																																											
C9A (T)	33 51.283 118	26.283																																																																																											
D1 (Benthic)	33 54.700 118	33.000																																																																																											
D1T (T)**	33 54.805 118	32.215																																																																																											
E1	33 59.057 118	42.867																																																																																											
E3	33 58.317 118	36.867																																																																																											
E6	33 55.700 118	33.417																																																																																											
E10	33 49.405 118	27.880																																																																																											
Z1	33 54.883 118	31.500																																																																																											
Z2 (T)	33 54.450 118	31.467																																																																																											
Z3 (T)**	33 54.005 118	30.395																																																																																											
Z4 (T)**	to be determined																																																																																												
Year 1 random stations																																																																																													
NA1	33 53.396 118	31.190																																																																																											

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Comment #	Document Reference (Doc. #, Page #, Section #, Paragraph #)	Issue	Comments				
			NA2	33	54.054	118	30.907
			NA3	33	54.199	118	32.025
			NA4	33	55.061	118	30.380
			NA5	33	55.167	118	31.114
			NA6	33	56.041	118	31.636
			FA7	33	52.397	118	29.837
			FA8	33	52.675	118	32.650
			FA9	33	52.981	118	29.263
			FA10	33	53.132	118	30.983
			FA11	33	53.594	118	30.105
			FA12	33	53.870	118	29.438
			FA13	33	54.398	118	34.130
			FA14	33	54.874	118	28.602
			FA15	33	55.073	118	33.387
			FA16	33	55.966	118	30.050
			FA17	33	56.086	118	33.208
			FA18	33	56.612	118	29.351
			FA19	33	56.671	118	32.167
			FA20	33	57.157	118	31.470
			Random1A (T)** to be determined				
			Random2A (T)** to be determined				
			Random3A (T)** to be determined				
			SMB Random Stations (Year 2)				
			NB1	33	54.325	118	33.022
			NB2	33	54.490	118	30.105
			NB3	33	54.883	118	32.057
			NB4	33	54.905	118	30.594
			NB5	33	55.261	118	32.981
			NB6	33	55.620	118	29.888
			NB7	33	55.670	118	31.887
			NB8	33	56.212	118	30.826
			FB9	33	52.493	118	31.105
			FB10	33	53.017	118	29.854
			FB11	33	53.087	118	33.191
			FB12	33	53.249	118	30.759
			FB13	33	53.282	118	29.015
			FB14	33	53.616	118	33.900
			FB15	33	54.194	118	28.841

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Comment #	Document Reference (Doc. #, Page #, Section #, Paragraph #)	Issue	Comments
			FB16 33 55.102 118 29.375 FB17 33 56.220 118 33.825 FB18 33 56.407 118 29.231 FB19 33 56.690 118 31.871 FB20 33 56.858 118 30.287 Random1B (T)** to be determined Random2B (T)** to be determined Random3B (T)** to be determined  * Given in decimal minutes ** Trawl site only (T) Trawl stations
<b>Response:</b>	Corrections have been made.		
<b>Actions:</b>	Change has been made.		
158	Attachment T, Page T-42	Survey Sites	Replace "Z4 (T) to be determined" with " <u>To be determined near Z4 (T).</u> " This has been corrected in the above comment.
<b>Response:</b>	Since location of Z4 (T) has not been determined, this comment is irrelevant. No change has been made.		
<b>Actions:</b>	None necessary..		
159	Attachment T, Pages T-43 and T-44, Section 3.b., Paragraph 3, Page T-45, Section 2.b., Paragraph 3, and Pages T-48 and T-49, Section 3.b., Paragraph 3, and .4.b	Regional Survey	The next regional survey is expected to occur in 2008 and the City's level of participation is required to be consistent with that provided in previous surveys. No mention is made of resource exchange. In the past, the City has been allowed to "resource exchange" routine monitoring with regional monitoring efforts so that there was no net gain in resources expended on the regional monitoring programs. Each of these paragraphs should contain a statement that regional and other special monitoring efforts will be evenly resource exchanged with routine monitoring.
<b>Response:</b>	The City's expected level of participation will be consistent with past efforts. Since regional monitoring is now required in the permit, and there are virtually no monitoring that can be eliminated, resource exchange is no longer possible.		
<b>Actions:</b>	None necessary.		
	Attachment T, Page.	Sampling Design	Sampling time is not provided for trawl and, as noted in an earlier comment, the reference to

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Comment #	Document Reference (Doc. #, Page #, Section #, Paragraph #)	Issue	Comments
160	T-44, Section VII.D.1.b., Paragraph 1		regional field sampling protocol should be deleted as inappropriate for on-going point-source monitoring programs. The Bureau requests that the Regional Board revise the wording as follows:  "Trawling stations shall be sampled semiannually in winter (January – March) and summer (July – September) following benthic sampling for demersal fish and epibenthic invertebrates following protocols described in the <del>Bight '98 Field Operations Manual</del> <u>most current edition of the Field Operations Manual for Marine Water-Column, Benthic, and Trawl Monitoring in Southern California.</u> "
<b>Response:</b>	USEPA and Regional Board staff agree and have revised the Section VII.D.b., paragraph 1, as follows:  "Sampling Design - Trawling stations shall be sampled semiannually <u>in winter (January – March) and summer (July – September)</u> following benthic sampling for demersal fish and epibenthic invertebrates following protocols described in the <u>most recent Bight Regional Marine Monitoring Survey</u> <del>Bight '98 Field Operations Manual.</del> "		
<b>Actions:</b>	Changes have been made.		
161	Attachment T, Page T-44, Section VII.D.1.b., Paragraph 2, and Section VII.D.1.c	Typographic Errors	Add hyphen to "size classed" as follows: "size-classed"  Change "TD1" to "D1T"
<b>Response:</b>	Errors have been corrected.		
<b>Actions:</b>	Changes have been made.		
162	Attachment T, Pages T- 45 and T-46, Section 1.b., Paragraph 5	Total DDT, DDT Derivatives and Total PCB, PCB Derivatives	Total DDT should be specified to be the sum of DDT derivatives.  Total PCB should be specified to be the sum of PCB derivatives.  This information needs to be defined in Attachment T as it is in the Order at page 38.
<b>Response:</b>	Definitions for total DDT and total PCB have been added as Footnotes to the Receiving Water Monitoring Program on Page T-51. Please note that PCB congeners have already been specified on p. T-50 of the draft monitoring and reporting program.		
<b>Actions:</b>	Changes have been made.		
	Attachment T, Page.	Delete Zone 3	The Bureau requests removal of Zone 3 from its responsibility. This area, located south of

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<b>Comment #</b>	<b>Document Reference</b> (Doc. #, Page #, Section #, Paragraph #)	<b>Issue</b>	<b>Comments</b>
163	T-46, Section VII.E.1.c, Paragraph 1, and Page. T-48, Section VII.E.2.c, Paragraph 1		Redondo Beach Canyon, has not been monitored historically by the City, it has been monitored by Los Angeles County Sanitation Districts (LACSD). With the transfer of responsibility of Zone 3 to LACSD, the City of Los Angeles would only be responsible for Zones 4 and 5 (HTP NPDES permit) and Zone H (TITP NPDES permit), then LACSD would be responsible for three Zones (Zones 1-3). This request is identical to the joint ocean monitoring proposal presented to Regional Board staff in 2001 by City of LA's Environmental Monitoring Division and LACSD.
<b>Response:</b>	Zone 3 has been deleted as requested.		
<b>Actions:</b>	Change has been made.		
164	Attachment T, Page T-48, Section VII.E.3.a and b, and Page T-50, footnotes [10] and [12]	Modify Sampling Season and Change Incorrect Footnote	<p>The various species of fish proposed for the Local Seafood Safety Survey are optimally available at different times throughout the year. For maximum sampling efficiency, all references to any specific sampling period should be deleted. Also, the Bureau requests that the Regional Board delete the reference to footnote 10 and add 12 on Page T-47, as follows:</p> <p>“For fish tissue analysis, one composite sample of ten individuals of each target will be collected within each of the two zones<sup>[11,12]</sup>. Sampling should focus upon a consistent size class of fish. All tissue samples shall be analyzed for:....”</p>
<b>Response:</b>	We have changed the incorrect Footnote and the number of zones in the paragraph. However, we require the sampling to be taken within the same season of each year. The suggested sampling period in late summer/early fall may be changed if the Bureau prefers another period of the year and requests it from the Executive Officer.		
<b>Actions:</b>	Some changes as indicated have been made.		
165	Attachment T, Page T-48, Section VII.E.3	Delete Seafood Safety Requirement	The Bureau requests removal of the Regional Seafood Safety Survey program as described. This program does not exist as a formal entity nor is regional seafood safety a part of normal regional monitoring such as Bight'98 and Bight'03. As such, participation in a non-existent program should not be legally mandated. If such a program is formalized, then the City of Los Angeles may consider participating in relevant portions of this program on a voluntary basis to demonstrate it's commitment to the environment. This requirement has not been demonstrated to be necessary for inclusion in the Hyperion NPDES permit.

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<b>Response:</b>			<p>The State of California created a Coastal Fish Contamination Program (CFCP) in 1998. The objective of this Program was to obtain data to be used by OEHHA for human health assessments of fish species for coastal waters in areas commonly utilized by sport fishermen. After a few years, dedicated funding for this statewide monitoring program disappeared. The CFCP, as well as the State Mussel Watch and Toxic Substances Monitoring Programs, are included within the State's Surface Water Ambient Monitoring Program (SWAMP) and must compete for limited funding resources.</p> <p>Currently, SWAMP is underfunded and insufficient funding is available to conduct the CFCP on a statewide basis. If such a statewide program is reinstituted in the future, the City of Los Angeles will be required to participate. However, it is likely that participation in the Local Seafood Safety Survey would be adequate to cover most, if not all, of this obligation. Even if the statewide regional survey fails to materialize, the Local Seafood Safety Survey recommendations from the Santa Monica Bay Restoration Project included a broad scale resampling of several species at least once every 10 years; consequently, this element is included as a Regional Seafood Safety Survey monitoring requirement.</p> <p>The Los Angeles Regional Board and USEPA anticipate that some type of Regional Predator Risk survey will be retained in future Bight Regional Surveys, given that this element was monitored during Bight'98 and Bight'03. Should this type of survey be discontinued, the City may consult with the Regional Board and USEPA to reallocate these resources.</p>
<b>Actions:</b>	None necessary.		
166	Attachment T, Page T-49, Section VII.E.5	Delete Kelp Bed Monitoring Requirement	<p>The Bureau requests removal of this requirement. As noted in an earlier comment, the HTP wastewater plume does not extend to kelp bed areas in Santa Monica Bay, the plume occurs predominantly within 2 km of the outfall and shoals 2.5 km from shore. Kelp beds exist 20 km from the Hyperion outfall (No. 002) and are located above the shoaling depth of the plume. Further, the Regional Board has not demonstrated that such monitoring is necessary for inclusion in the HTP Permit.</p>
<b>Response:</b>			Please refer to response to Comment No. 19 in the response letter.
<b>Actions:</b>	None necessary.		
167	Attachment T, Page T-50. Footnote [2]	Discrete Sample Depths	<p>The permit should be corrected to account for the fact that discrete samples cannot be obtained at 0 m and must be collected within the first meter. The Bureau requests the following change:</p> <p>"Discrete sampling for ammonia nitrogen, fecal coliform (or E. coli), total coliform and enterococcus shall be done <u>within 1 m (3.1 ft)</u> and below the surface at 15.0 m (49.2 ft), 30.0 m (98.4 ft), and 45.0 m (147.6 ft) <u>(or as deep as practical for those stations located in depths less than 45 m).</u></p>



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<b>Comment #</b>	<b>Document Reference</b> (Doc. #, Page #, Section #, Paragraph #)	<b>Issue</b>	<b>Comments</b>
<b>Response:</b>	USEPA and Regional Board staff agree and have modified footnote [2] as follows:		
<b>Actions:</b>	<p>"Discrete sampling for ammonia nitrogen, fecal coliform (or E. coli), total coliform and enterococcus shall be done <del>to the surface</del> within 1 m (3.1 ft) and below the surface at 15.0 m (49.2 ft), 30.0 m (98.4 ft), and 45.0 m (147.6 ft) <u>(or as deep as practical for those stations located in depths less than 45 m).</u></p> <p>Changes have been made.</p>		
168	Attachment T, Page T-50, footnote [2]	Discrete Sampling for Cooperative Water Quality Survey	Footnote [2] refers to sampling for total coliforms and enterococci. The Bureau recommends removing these parameters from the offshore monitoring program, as they do not add additional information regarding these stations and the locations of the plume (see comment #152).
<b>Response:</b>	The updated water quality objectives for bacteria for marine water in the amended Basin Plan include three bacterial indicators: total coliform, fecal coliform, and enterococcus. The additional monitoring requirements for total coliform and enterococcus are used to show compliance with water quality objectives for receiving water designated for water contact recreation (REC-1).		
<b>Actions:</b>	None necessary.		
169	Attachment T, Page T-50, footnote [4]	Station Observations	<p>The Regional Board should delete the statement regarding observations made in transit. It is impractical and irrelevant to actual observations made at each station. The Bureau requests the following change:</p> <p>"Receiving Water Observations of water color, turbidity, odor, and unusual or abnormal amounts of floating or suspended matter in the water or on the beach, rocks and jetties, or beach structures shall be made and recorded at stations. The character and extent of such matter shall be described. The dates, times and depths of sampling and these observations shall also be reported."</p>
<b>Response:</b>	USEPA and Regional Board staff agree and have modified Footnote [4] for Receiving Water Monitoring Program.		
<b>Actions:</b>	Change has been made.		
170	Attachment T, Page T-50, footnote [7]	Benthic Infauna Wet Weight Estimate	The Bureau requests deletion of this requirement. The Bight'98 Benthic Report (Ranasinghe, J.A., D.E. Montagne, R.W. Smith, T.K. Mikel, S. B. Weisberg, D.B. Cadien, R.G. Velarde, and A. Dalkey. 2003. Southern California Bight 1998 Regional Monitoring Program: VII Benthic Macrofauna. Southern California Coastal Water Research Project. Westminster, CA. 91 p+9 Appendices) recommended that wet weight biomass be eliminated as an indicator for infauna since the measurement of wet weight biomass did not materially add to the understanding of impacts or communities in Bight'98. Furthermore, the Bight'03 program followed this recommendation and infaunal wet weight biomass measurements were not taken.

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<b>Response:</b>	The biomass measurement requirement has been eliminated. The phrase "estimates of wet weight of each taxonomic group (molluscs, echinoderms, polychaetes, crustaceans, and all other infauna)" has been removed from Footnote [7] of the Receiving Water Monitoring Program.		
<b>Actions:</b>	Changes have been made.		
171	Attachment T, Page T-50, footnote [7]	Community Analysis of Benthic Infauna	As written, requirement conflicts with the format of Attachment S, Page S-7. The Bureau suggests the following wording:  "Community analysis of benthic infauna shall include number of species, number of individuals per species, total numerical abundance per station, and biological indices, plus utilize appropriate regression analyses, parametric and nonparametric statistics, and multivariate techniques or other appropriate analytical techniques".
<b>Response:</b>	USEPA and Regional Board staff agree to the proposed changes, with the addition of "benthic response index (BRI)".		
<b>Actions:</b>	Changes have been made.		
172	Attachment T, Page T-51, footnote [10]	Community Analysis of Fish and Macroinvertebrates	As written, requirement conflicts with the format of Attachment S, page S-7 and the most current edition of <i>Field Operations Manual for Marine Water-Column, Benthic, and Trawl Monitoring in Southern California</i> . Further, this requirement does not recognize the fact that standard length measurements can only be taken on fish. The Bureau requests the following change:  "Community analysis of fish and macroinvertebrates shall include wet weight of fish and macroinvertebrate species (when combined weight of individuals of one species exceed <u>0.1</u> kg), standard length of each individual <u>fish</u> , number of species, number of individuals per species, total numerical abundance per station, number of individuals in each 1-cm size class for each species of fish, species abundance per trawl and per station, and biological indices, plus utilize appropriate regression analyses, parametric and nonparametric techniques, and multivariate techniques or other appropriate analytical techniques."
<b>Response:</b>	USEPA and Regional Board staff agree to the proposed changes.		
<b>Actions:</b>	Changes have been made.		
173	Attachment T, Page T-51, footnote [11]	Tissue Samples	The level of effort required to constitute a "good faith effort" is unclear and does not distinguish between that required for local bioaccumulation trends and local seafood safety. The Bureau

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			<p>requests the following change:</p> <p><u>“Where appropriate, individuals collected for both local bioaccumulation trends or local seafood safety comprising the smallest 10 percent by weight shall not be used as part of the composite sample. Individuals for tissue analysis shall be randomly selected from the remaining organisms. It may not be possible to collect the required number of fish every year at each zone. If fish of the target size are absent in a given zone, additional sampling effort need not be attempted. If target size fish are present in a given zone, one additional sampling event shall be conducted to attempt to collect the necessary number of individuals.”</u></p>
<b>Response:</b>	USEPA and Regional Board staff agree to the proposed changes.		
<b>Actions:</b>	Changes have been made.		
174	Attachment T, Page T-24, Footnote [5]	Definition of Total Chlordane	<p>The Tentative Permit includes the misnamed isomers nonachlor-alpha and nonachlor gamma. This should be corrected to state: “Sum of chlordane-alpha, chlordane-gamma, chlordene-alpha, chlordene-gamma, nonachlor-alpha, nonachlor-gamma, and oxychlordane.” Nonachlors -alpha and -gamma are misnamed. These should be corrected to nonachlor-cis and nonachlor-trans, respectively.</p>
<b>Response:</b>	This is the definition of total chlordane in the Ocean Plan. However, we agree with the Bureau’s comment and make changes as requested.		
<b>Actions:</b>	Change has been made.		